

# **EXHIBIT 38**

1 IN THE CHANCERY COURT  
2 OF THE FIRST JUDICIAL DISTRICT  
OF HINDS COUNTY, MISSISSIPPI  
CIVIL ACTION NO. 25CH1:14-cv-001207

3

4 THE STATE OF MISSISSIPPI,  
5 ex rel. LYNN FITCH, ATTORNEY  
6 GENERAL,  
7 Plaintiff,  
8 vs.  
9 JOHNSON & JOHNSON, et al.  
10 Defendants.

10

11 VOLUME I

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Page 2			Page 4		
1 A P P E A R A N C E S:			1 I N D E X (Continued)		
2			2 E X H I B I T S (Continued)		
3 ATTORNEYS FOR PLAINTIFF:			3 Exhibit		
4 (Via Videoconference)			4 Name		
5 BEASLEY ALLEN, P.C.			5 Description		
6 BY: LEIGH O'DELL, ESQ.			6 Article entitled, "Talcum		
7 218 Commerce Street			7 powder induces malignant		
8 Montgomery, Alabama 36104			8 transformation in normal		
9 (334) 269-2343			9 human primary ovarian		
10 leigh.odell@beasleyallen.com			10 epithelial cells," by Amy K.		
11			11 Harper, et al.		
12 ATTORNEYS FOR DEFENDANTS:			12 Publication entitled,		
13 (Via Videoconference)			13 "Genital powder exposure and		
14 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP			14 the risk of epithelial		
15 BY: JESSICA DAVIDSON, ESQ., and			15 ovarian cancer," by Karin A.		
16 ASHER S. TRANGLE, ESQ.			16 Rosenblatt, et al.		
17 One Manhattan West			17 The American College of		
18 New York, New York 10001			18 Obstetrics and Gynecologists		
19 (202) 735-2588			19 FAQs on Ovarian Cancer		
20 jessica.davidson@skadden.com			20 Document entitled, "Centers		
21 asher.trangle@skadden.com			21 for Disease Control: What		
22 - and -			22 are the Risk Factors for		
23 (Via Videoconference)			23 Ovarian Cancer		
24 BUTLER SNOW LLP			24 National Cancer Institute		
25 BY: MEADE W. MITCHELL, ESQ.			25 Publication entitled,		
1 ALSO PRESENT:			158 "Ovarian, Fallopian Tube,		
2 Michelle Parfitt, Esq.,			159 and Primary Peritoneal		
3 c/o Ashcraft & Gerel			160 Cancers Prevention		
4 Carolina De La Rosa, Videographer			161 (PDQ®)-Health Professional		
5			162 Version		
6			163 12 Publication entitled,		
7			164 "Association Between the		
8			165 Frequent Use of Perineal		
9			166 Talcum Powder Products and		
10			167 Ovarian Cancer: A		
11			168 Systematic Review and		
12			169 Meta-analysis, by Sean A.		
13			170 Woolen, MD MSc, et al.		
14			171		
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<p>1 THE VIDEOGRAPHER: We're now on the  2 record. My name is Carolin De La Rosa, a  3 videographer for Golkow Litigation  4 Services.</p> <p>5 Today's date is October 3, 2023,  6 and the time is 9:06 a.m.</p> <p>7 This deposition is being held in  8 the matter of Talc (Lynn Fitch AG ex rel.  9 State of Mississippi versus Johnson &amp;  10 Johnson, et al. The deponent today is  11 Dr. Anne McTiernan.</p> <p>12 All parties to this deposition are  13 appearing remotely and have agreed for the  14 witness to be sworn in remotely.</p> <p>15 All parties are noted on the  16 stenographic record.</p> <p>17 Will the Court please administer  18 the oath to the witness.</p> <p>19 THE COURT REPORTER: Doctor, if you  20 could raise your hand.</p> <p>21 THE WITNESS: (Complies with  22 request.)</p> <p>23 A N N E M C T I E R N A N, M. D., P H. D.,  24 having first been duly sworn, was examined and  25 testified as follows:</p>	<p>1 Where are you today?  2 A. I'm in Seattle, Washington, in my  3 home.</p> <p>4 Q. Did you bring any materials with  5 you in response to the depo notice?  6 A. I have copies of my -- of papers  7 that were added to the reliance list.</p> <p>8 Q. Is that all you have -- sorry.  9 MS. O'DELL: And -- and excuse me.  10 Just for the record, Jessica, I'm assuming  11 you got the objections and responses that  12 were filed by the plaintiff about two  13 weeks ago, I think on the record.  14 And we have provided documents  15 yesterday in keeping -- I say that,  16 yesterday; it was last Thursday -- in  17 keeping with those objections and  18 responses.</p> <p>19 MS. DAVIDSON: Asher, we got an  20 updated CV and reliance list, right?  21 MR. TRANGLE: Yes, and testimony  22 list.</p> <p>23 MS. DAVIDSON: And that's it,  24 right?  25 MR. TRANGLE: And testimony list --</p>
<p>1 THE COURT REPORTER: Thank you.  2 You may proceed.</p> <p>3 MS. DAVIDSON: Thank you. Before  4 we start, I just want to make sure you  5 guys can hear me and I don't have to put  6 on my things -- my ear buds.</p> <p>7 Am -- am I perfectly clear?</p> <p>8 THE COURT REPORTER: You sound good  9 to me.</p> <p>10 MS. DAVIDSON: Okay. Great.</p> <p>11 THE WITNESS: Yeah, it's clear --  12 it's to me -- it's clear to me also, yeah.</p> <p>13 MS. DAVIDSON: Excellent. Okay.</p> <p>14 EXAMINATION</p> <p>15 BY MS. DAVIDSON:</p> <p>16 Q. So Dr. McTiernan, it's nice to see  17 you again.</p> <p>18 Can you please state your full name  19 for the record?</p> <p>20 A. Anne McTiernan.</p> <p>21 Q. Great. I know you've been deposed  22 before; and in the interest of not repeating  23 old ground, I'm not going to go through the  24 deposition rules again. I think you know them  25 quite well.</p>	<p>1 MS. DAVIDSON: Okay.  2 MR. TRANGLE: But I think -- but I  3 think that was identical.  4 MS. DAVIDSON: Okay.</p> <p>5 BY MS. DAVIDSON:</p> <p>6 Q. And that's -- is that all you have  7 in front of you today, Dr. McTiernan?</p> <p>8 A. I have the IARC report on asbestos  9 from 2012. Prior to that, I have -- most of  10 this other documents they're, yeah, things that  11 are in the new reliance list or occasionally  12 something they have referred to in that  13 individual paper.</p> <p>14 Q. I'm sorry?</p> <p>15 A. So if one of the studies used a  16 reference for their methodology, then I may  17 have a copy of that here.</p> <p>18 Q. So -- and are these hard copies?</p> <p>19 A. Yes.</p> <p>20 Q. So in addition -- can you tell me  21 what documents you have in front of you in  22 addition to the ones that are listed in the  23 Materials Considered List?</p> <p>24 A. Let's see. I don't have them  25 separated out that way by whether they're in</p>

<p>1 the -- the materials list, so I could read them 2 off -- 3 Q. Okay. 4 A. -- everything that I have here. 5 Q. It sounds good. 6 A. I have Leon, "Occupational 7 Environment and Ovarian Cancer Risk." 8 I have Wentzensen and O'Brien, 9 "Talc Body Powder and Ovarian Cancer: A 10 Summary of the Epidemiologic Evidence." 11 I have Micha, "Talc Powder and 12 Ovarian Cancer: What is the Evidence." And 13 then there were two letters associated with 14 that. So that was an opinion piece. There 15 were two letters associated with that also, one 16 by I think it was by Tran and one by Micha. 17 I have a correspondence article by 18 Cramer. It's called "The Association of Talc 19 Use and Ovarian Cancer: Biased or Causal." 20 That was from 2022. 21 Q. Anything else? 22 A. Yes, quite a few. I have 23 Environmental Protection Agency, EPA, March 24 2005, "Guidelines for Carcinogen Risk 25 Assessment." So this would have been</p>	<p>Page 10</p> <p>1 the Physical Activity Guidelines for Americans 2 Advisory Committee Scientific Report." 3 There's some papers here that don't 4 make sense to be here. I can -- I can put 5 these away if you want. There are a couple of 6 papers on causal claims and journals, but 7 they're not -- that didn't affect my -- my 8 opinion; and I don't need them. 9 So I could either put them away or 10 I can tell you what they are. I don't mind 11 either way. 12 Q. You can just put them away. I 13 think that's -- 14 A. Okay. 15 Q. -- in the interest of time easier. 16 A. Okay. 17 Q. So the document -- are you done? 18 A. No. There's quite a bit more here. 19 Q. Oh. 20 A. I have -- I showed you that one. 21 I have a paper copy of my updated 22 report, expert report, dated June 24, 2021. I 23 have two papers by Lynch, et al. So these -- I 24 don't know. One is 2023 Lynch, "Systematic 25 Review of Association Between Talc and Female</p>
<p>1 referenced by the Lynch papers. 2 I have something that's up on the 3 on the reference list, Cochrane Training, 4 Chapter 15, "Interpreting Results and Drawing 5 Conclusions." 6 I have the O'Brien paper from -- 7 let's see -- from 2023, "Douching and Gentle 8 Talc Use: Patterns of Use and Reliability of 9 Self-Reported Exposure." 10 I have two papers from the Physical 11 Activity Guidelines Advisory Committee, and 12 these explain the methodology that was used in 13 that committee. So that refers to my CV. 14 So these are -- these are papers 15 that are not on my CV, but they're methodology 16 for work I did with the U.S. Physical Activity 17 Guidelines Committee. 18 So one is by Torres, T-O-R-R-E-S, 19 2018, Umbrella and Systematic Review 20 Methodology to Support the 2018 Physical 21 Activity Guidelines Advisory Committee. 22 And then there's another paper by 23 Pescatello, P-E-S-C-A-T-E-L-L-O, "Best 24 Practices for Better Reviews and Physical 25 Activity and Health Research: Insights from</p>	<p>Page 11</p> <p>1 Reproductive Tract Cancers." 2 And the other is Lynch, "Systematic 3 Review" -- where is that -- "of the Scientific 4 Evidence of Pulmonary Carcinogenicity of Talc." 5 And those -- other papers that are 6 with those are the protocols. So each of those 7 papers had a protocol available on their 8 website. 9 I have a paper that was -- two 10 papers that were included in these reviews that 11 I downloaded because they were not part of my 12 review. One is Urban 2015, "Identifying 13 Postmenopausal Women at Elevated Risk for 14 Epithelial Ovarian Cancer." 15 And one is Jordan, and that is 16 2007, "Risk Factors for Benign, Serous, and 17 Mucinous Epithelial Ovarian Tumors." 18 And then another paper that is on 19 the reliance list, Goodman, "Critical Review of 20 Talc and Ovarian Cancer," 2020. 21 I have a paper that was on the 22 reliance list: "Asbestos Exposure and Ovarian 23 Cancer." First author is Nowak, N-O-W-A-K, and 24 that's 2021. So there's that paper and the 25 protocol that they listed on their website.</p>

<p>1        Some of these are -- oh, so this  2 Nowak referenced some papers that I did not  3 have previously. One is Bounin, "Occupational  4 Risk Factors: Ovarian Cancer Literature  5 Review."</p> <p>6        There are several cohort studies  7 that they refer to, one by Pira, "Updated  8 Mortality Study of a Cohort of Asbestos Textile  9 Workers; Magnani, M-A-G-N-A-N-I, "Italian Pool  10 of Asbestos Workers Cohorts."</p> <p>11       One by Wang, "Cause-Specific  12 Mortality in a Chinese Chrysotile Textile  13 Worker Cohort."</p> <p>14       Q. Can we stop for a second?</p> <p>15       A. Yes.</p> <p>16       Q. Pira, Magnani, and Wang are not on  17 your reliance list.</p> <p>18       Did you review them?</p> <p>19       A. Not in detail, and they're not on  20 my reliance list.</p> <p>21       Q. If you didn't review them in detail  22 and they're not on your reliance list, why do  23 you have them here?</p> <p>24       A. Because -- you know, because these  25 are ones that were referred to in another</p>	<p>1        on what it is. We could go through each  2 one if you want.</p> <p>3 BY MS. DAVIDSON:</p> <p>4       Q. Some -- some of the documents on  5 your Materials Reviewed List you reviewed in  6 depth and some you didn't; is that fair to say?</p> <p>7       MS. O'DELL: Objection.</p> <p>8       Go ahead.</p> <p>9       THE WITNESS: It would depend on  10 what it was.</p> <p>11 BY MS. DAVIDSON:</p> <p>12       Q. But there are some documents on  13 your Materials Reviewed List that you did not  14 review in depth, correct?</p> <p>15       MS. O'DELL: Objection to form.</p> <p>16       THE WITNESS: Yes, depending on  17 what the item was.</p> <p>18 BY MS. DAVIDSON:</p> <p>19       Q. And yet you did not add Pira,  20 Magnani, and Wang to your review list?</p> <p>21       A. They're not there because they were  22 referenced within Nowak.</p> <p>23       Q. So does your review list not  24 include studies that are referenced in other  25 studies?</p>
<p>1        review.</p> <p>2       Q. Which review?</p> <p>3       A. Nowak, N-O-W-A-K.</p> <p>4       Q. When did you review Pira, Magnani,  5 and Wang?</p> <p>6       A. I didn't review -- review them --  7 review in depth, but it would have been in the  8 last month or so.</p> <p>9       Q. Did you review in depth every  10 single document on your Materials Considered  11 List?</p> <p>12       MS. O'DELL: Objection to the form.</p> <p>13       THE WITNESS: Sorry. I didn't -- I  14 missed that.</p> <p>15 BY MS. DAVIDSON:</p> <p>16       Q. Did you review in depth every  17 single document on your Materials Considered  18 List?</p> <p>19       A. Yeah. I missed what Ms. O'Dell  20 said.</p> <p>21       MS. O'DELL: I just objected to the  22 form of the question.</p> <p>23       You may answer if you understood  24 it.</p> <p>25       THE WITNESS: Oh, okay. It depends</p>	<p>1        A. Typically it wouldn't because some  2 of these meta-analyses, systematic reviews  3 could have dozens or hundreds of references, so  4 I wouldn't put each one of those in my reliance  5 list.</p> <p>6       Q. Are you offering an opinion on  7 mesothelioma in this litigation?</p> <p>8       A. It's -- it's -- yes. It's listed  9 in my expert -- that -- that will be part of my  10 expert opinion.</p> <p>11       Q. You're offering an opinion in the  12 Mississippi case that the use of talc can cause  13 mesothelioma?</p> <p>14       A. I just want to see what the actual  15 document says, how it's written.</p> <p>16       Okay. So as it's written in the  17 Plaintiff Disclosure of Expert Witnesses that I  18 will "provide expert testimony to a reasonable  19 degree of medical and scientific certainty that  20 exposure to talcum powder products is a cause  21 of ovarian cancer and mesothelioma."</p> <p>22       Q. Have you ever offered an opinion  23 before that exposure to talcum powder is a  24 cause of mesothelioma?</p> <p>25       A. I do discuss mesothelioma in my</p>

<p>1 expert report. And --</p> <p>2 Q. Does your expert report state that</p> <p>3 talcum powder can cause mesothelioma?</p> <p>4 A. I will need to look at that. So to</p> <p>5 answer that I'm happy to look at my report and</p> <p>6 tell you what I said.</p> <p>7 Q. What are you relying on for that</p> <p>8 opinion?</p> <p>9 A. In much of the systematic review</p> <p>10 that I did for my expert report, there were</p> <p>11 multiple cancers reviewed, such as the IARC</p> <p>12 monographs and some other studies.</p> <p>13 Q. Can you list for me everything that</p> <p>14 you're relying on for your opinion that</p> <p>15 exposure to talc can cause mesothelioma, every</p> <p>16 material from your Materials Considered List</p> <p>17 that you're relying on for that opinion?</p> <p>18 A. That would take some time to</p> <p>19 answer. So if you want to take -- me to take</p> <p>20 the time today, I can do that. It's going to</p> <p>21 take quite a bit of time to review all of that</p> <p>22 material and see which studies, which</p> <p>23 documents, which monograph discussed</p> <p>24 mesothelioma.</p> <p>25 Q. Can you identify any?</p>	<p>Page 18</p> <p>1 MS. O'DELL: She's not playing</p> <p>2 games --</p> <p>3 MS. DAVIDSON: That's why we're in</p> <p>4 court.</p> <p>5 MS. O'DELL: Let me finish. Let me</p> <p>6 finish.</p> <p>7 She was not playing games. You</p> <p>8 asked her a question about her report, and</p> <p>9 she was answering your question. If you</p> <p>10 want to withdraw that question, that's</p> <p>11 fine; but the assumption --</p> <p>12 MS. DAVIDSON: -- the question --</p> <p>13 MS. O'DELL: Please don't interrupt</p> <p>14 me.</p> <p>15 But the assertion that</p> <p>16 Dr. McTiernan was not endeavoring to</p> <p>17 answer your question in good faith is</p> <p>18 inappropriate.</p> <p>19 So if you -- if you want to</p> <p>20 withdraw that question, please do; and if</p> <p>21 you have another question -- and -- and</p> <p>22 I'm sure Anne --</p> <p>23 MS. DAVIDSON: Leigh, this</p> <p>24 deposition will go for a month if</p> <p>25 Dr. McTiernan is going to go through and</p>
<p>1 A. I'm going to look at my report</p> <p>2 right now, and I'll give you an answer what I</p> <p>3 find here.</p> <p>4 Q. Are you looking at your report?</p> <p>5 A. I am. I'm looking online so that I</p> <p>6 can search for mesothelioma. So I'm looking at</p> <p>7 the online version.</p> <p>8 Q. Which report?</p> <p>9 A. So this is the Amended Expert</p> <p>10 Report dated June 24th, 2021, MDL No. 162738.</p> <p>11 MS. DAVIDSON: If we could go to</p> <p>12 the executive summary of that report,</p> <p>13 let's mark that as Exhibit 1. I'm marking</p> <p>14 as Exhibit 1, Amended Expert Report of</p> <p>15 Anne McTiernan, dated Jan- -- June 24th,</p> <p>16 2021.</p> <p>17 MS. O'DELL: Jessica, are you</p> <p>18 withdrawing the last question?</p> <p>19 I think Dr. McTiernan was</p> <p>20 endeavoring to answer -- answer that</p> <p>21 question.</p> <p>22 MS. DAVIDSON: Dr. McTiernan was</p> <p>23 going to spend hours going through her</p> <p>24 report to eat up time, and I'm not going</p> <p>25 to play these games today.</p>	<p>Page 19</p> <p>1 look for the word "mesothelioma" in this</p> <p>2 expert report.</p> <p>3 The bottom line is --</p> <p>4 MS. O'DELL: It will not.</p> <p>5 MS. DAVIDSON: -- we all know that</p> <p>6 this expert report was about ovarian</p> <p>7 cancer. It was not causation</p> <p>8 mesothelioma. So this is a completely new</p> <p>9 opinion.</p> <p>10 (Whereupon, Exhibit No. 1, Amended</p> <p>11 Expert Report of Anne McTiernan, M.D.,</p> <p>12 Ph.D., was marked for identification.)</p> <p>13 BY MS. DAVIDSON:</p> <p>14 Q. And I would like to ask you,</p> <p>15 Dr. McTiernan, in your executive summary to</p> <p>16 please read the first sentence out loud.</p> <p>17 A. I'm looking at the context. I want</p> <p>18 to see what else is in this executive summary.</p> <p>19 Q. You can do that on your own time.</p> <p>20 I'm asking you in this deposition</p> <p>21 to please read the first sentence of your</p> <p>22 executive summary.</p> <p>23 A. Okay. "This -- this review</p> <p>24 assessed relevant published epidemiologic</p> <p>25 evidence on the association between use of</p>

<p>1 talcum powder products in the genital/perineal 2 area and the risk of developing epithelial 3 ovarian cancer."</p> <p>4 But this does not mean that -- that 5 I did not also look at mesothelioma.</p> <p>6 Q. If we could turn to page 10 where 7 you summarize your opinions, can you read the 8 sentence "in my opinion"?</p> <p>9 A. Okay. On mine it says page 11. 10 And I just want to --</p> <p>11 Q. If you could just look on the 12 screen --</p> <p>13 MS. O'DELL: Excuse me.</p> <p>14 BY MS. DAVIDSON:</p> <p>15 Q. -- so that we're all working out of 16 the same exhibit, I think that would be better.</p> <p>17 MS. O'DELL: No. No. Excuse me, 18 please.</p> <p>19 MS. DAVIDSON: I'm sorry.</p> <p>20 MS. O'DELL: Please don't -- 21 please -- please do not interrupt 22 Dr. McTiernan. If she is speaking, 23 Jessica, please don't interrupt her; and 24 that will allow this to go a lot more 25 smoothly.</p>	<p>Page 22</p> <p>1 the screen, and we're looking at page 10. 2 MS. O'DELL: Just -- excuse me. I 3 didn't mean to interrupt. Let me ask. 4 Asher, if you will download this to 5 the chat.</p> <p>6 If there is some discrepancy in the 7 document that's on the screen versus 8 Dr. McTiernan's expert report which she 9 has in her possession, then it should be 10 in the chat so she could look at that in 11 context, not be confined to the screen.</p> <p>12 BY MS. DAVIDSON:</p> <p>13 Q. Dr. McTiernan, can you please read 14 the sentence that begins "in my opinion"?</p> <p>15 MS. O'DELL: Please put that in the 16 chat, Asher. And thank you for doing 17 that. I'm waiting for it. I'm sure 18 Dr. McTiernan is, too. And then she can 19 look at the document and ensure that she 20 has it in context.</p> <p>21 BY MS. DAVIDSON:</p> <p>22 Q. Dr. McTiernan, can you please read 23 the sentence at the top of page 10 out loud?</p> <p>24 MS. O'DELL: You -- you may wait if 25 wish, Dr. McTiernan. If you're</p>
<p>1 You can -- Dr. McTiernan has 2 referenced her 2021 report as it relates 3 to mesothelioma. That's what -- that's 4 new in a sense.</p> <p>5 If you're going to through past 6 aspects of the report that she's already 7 been deposed on, has already testified to, 8 that contravenes what the agreement is.</p> <p>9 MS. DAVIDSON: Thank you, Leigh.</p> <p>10 BY MS. DAVIDSON:</p> <p>11 Q. Dr. McTiernan, please, for the sake 12 of the record, I think we should be using the 13 official exhibit, which is the expert report 14 that has been introduced into evidence; and 15 page 10 is up on the screen.</p> <p>16 MS. O'DELL: So just since --</p> <p>17 BY MS. DAVIDSON:</p> <p>18 Q. I would appreciate it if you --</p> <p>19 MS. O'DELL: You're interrupting 20 me.</p> <p>21 BY MS. DAVIDSON:</p> <p>22 Q. I would appreciate if you didn't 23 look in other documents so that we have a clear 24 record of what you're looking at.</p> <p>25 And right now this exhibit is up on</p>	<p>Page 23</p> <p>1 satisfied --</p> <p>2 MS. DAVIDSON: If she's going to 3 wait, then we're going to go off the 4 record.</p> <p>5 MS. O'DELL: If she's satisfied 6 that that's her report, then she can -- 7 she can read it.</p> <p>8 That -- I defer to you, 9 Dr. McTiernan.</p> <p>10 THE WITNESS: I'd prefer to wait 11 until I can see the doc- -- the full 12 document.</p> <p>13 MS. DAVIDSON: Great. Let's go off 14 the record.</p> <p>15 THE VIDEOGRAPHER: The time is 16 9:30 a.m. We're off the record. 17 (Discussion held off the record.)</p> <p>18 THE VIDEOGRAPHER: The time is 19 9:335 a.m. We're back on the record.</p> <p>20 BY MS. DAVIDSON:</p> <p>21 Q. Can you read the first sentence at 22 the top of page 10 of your supplemental report?</p> <p>23 A. "In my opinion as an epidemiologist 24 and physician, stated to a reasonable degree of 25 medical and scientific certainty, use of talcum</p>

<p>1 powder products, including Johnson &amp; Johnson 2 Baby Powder and Shower to Shower in the 3 genital/perineal area can cause ovarian 4 cancer."</p> <p>5 Q. Are you still offering the 6 testimony that this expert report included the 7 opinion that you use of the talcum powder can 8 cause mesothelioma?</p> <p>9 MS. O'DELL: Object to the form.</p> <p>10 THE WITNESS: At this -- this 11 document does include information on 12 mesothelioma. Many of the studies that I 13 looked at included mesothelioma. IARC 14 also reviewed mesothelioma. And so it's 15 definitely part of my expert report.</p> <p>16 BY MS. DAVIDSON:</p> <p>17 Q. Part of your expert report is an 18 opinion that use of talc causes mesothelioma?</p> <p>19 MS. O'DELL: Object to the form.</p> <p>20 BY MS. DAVIDSON:</p> <p>21 Q. That's your testimony?</p> <p>22 MS. O'DELL: Object to the form. 23 It misstates the testimony.</p> <p>24 THE WITNESS: Can you mis- -- 25 repeat your question, please?</p>	<p>Page 26</p> <p>1 10:26 a.m. We're back on the record. 2 MS. O'DELL: In response to the 3 previous discussion about the scope of 4 Dr. McTiernan's testimony in this case 5 that she'll be offering the opinion that 6 talcum powder and its constituent parts, 7 including asbestos and talc fibers, 8 cause -- can cause ovarian cancer, that 9 she will not be offering the specific 10 opinion in this case that asbestos and 11 talcum powder causes mesothelioma; 12 however, Dr. McTiernan certainly has read 13 and testified to references like the IARC 14 20- -- 2012 100C Monograph that do discuss 15 mesothelioma being caused by ovarian 16 cancer, and that's certainly part of 17 her -- her body of knowledge.</p> <p>18 And that's a statement on the 19 record that I would make in regard to 20 mesothelioma causation opinion in this 21 case.</p> <p>22 MS. DAVIDSON: Thank you, Leigh. 23 We go --</p> <p>24 MS. O'DELL: I'm sorry. Go ahead. 25 Excuse me.</p>
<p>1 BY MS. DAVIDSON:</p> <p>2 Q. Is it your testimony today that 3 this report includes the opinion that talc use 4 can cause mesothelioma?</p> <p>5 A. This report included information -- 6 I based my opinion on information expertise, 7 scientific studies that included data on 8 mesothelioma as being caused by talcum powder 9 products and asbestos.</p> <p>10 Q. Can you point me to any sentence in 11 this expert report that says that the use of 12 talc causes mesothelioma?</p> <p>13 A. I would need to review my report in 14 depth to see what has been stated about 15 mesothelioma.</p> <p>16 Q. So let's go off the record for you 17 to find for me where this expert report says 18 that the use of talc causes mesothelioma.</p> <p>19 THE VIDEOGRAPHER: The time is 20 9:37 a.m. We're off the record. 21 (Discussion held off the record.) 22 (Meade Mitchell joined the 23 conference.) 24 (Whereupon, a break was taken.) 25 THE VIDEOGRAPHER: The time is</p>	<p>Page 27</p> <p>1 MS. DAVIDSON: Meade, do you have 2 anything to add to that?</p> <p>3 MR. MITCHELL: I do not. My 4 understanding from Leigh's statement that 5 Dr. McTiernan is not going to be offering 6 any personal opinions in this case that 7 asbestos in talcum powder can lead to 8 mesothelioma. That's my understanding 9 from her statement.</p> <p>10 MS. DAVIDSON: Okay. The reason we 11 got on to this detour was because when we 12 began this deposition, I was asking 13 Dr. McTiernan what documents she had in 14 front of her; and she listed some of the 15 miner and miller studies.</p> <p>16 So then we got off on to this 17 discussion because I was surprised to hear 18 those were front of Dr. McTiernan so far 19 as they were not on her reliance list.</p> <p>20 BY MS. DAVIDSON:</p> <p>21 Q. But as a result, Dr. McTiernan, we 22 never finished discussing what other documents 23 you have in front of you.</p> <p>24 And in order to short circuit that, 25 I think the question really was: What</p>

<p>1 documents do you have in front of you that are 2 not listed on your Materials Considered List. 3 So I know we said Pira, Magnani, 4 Wang. 5 Are there any other documents that 6 you are looking at today that -- or have you in 7 front of you today that are not listed on your 8 Materials Considered as it was amended and 9 provided to us last week? 10 A. Let me just take a couple minutes 11 look here. 12 Q. Sure. 13 A. I don't see anything else. 14 Q. Excellent. And when we were 15 talking about your 2021 updated MDL report, you 16 were looking at it online. 17 I think for the purpose of this 18 deposition, I would appreciate if you would 19 just close all of your computer files and so 20 that we're creating a clear and accurate 21 record, that we're all looking at the same 22 documents. 23 So if there's a document you want 24 to look at, Asher will put it in the chat. It 25 will also be up on the screen, and I would ask</p>	<p>Page 30</p> <p>1 A. Underlined, underlined or high- -- 2 or highlighted. 3 Q. They have underlines and 4 highlights? 5 A. Some of them. 6 Q. If you decide during this 7 deposition to look at a document with 8 underlines or highlights, I would ask that you 9 send that to the chat so that we can maybe -- I 10 don't know how we would do that, maybe a PDF of 11 that -- so we all have the benefits of your 12 underlines and highlights while you're looking 13 at them. We'll figure that out when the time 14 comes. 15 But if you're looking at a document 16 that's underlined and highlighted, I believe we 17 should all have access to that. 18 MS. O'DELL: If we get to that 19 point, Jessica, I would just suggest just 20 ask about the underlining and highlights 21 or maybe that's something that can be 22 obtained after the deposition; but it 23 won't be possible for her to scan that 24 document, for example, and put it in the 25 chat.</p> <p>Page 32</p>
<p>1 that you limit what you look at in this 2 deposition to that. 3 Is that okay? 4 MS. O'DELL: No. If -- if she has 5 a copy, for example, of an article that's 6 on her reliance list and she has a paper 7 copy in front of her and Dr. McTiernan 8 prefers to look at a paper copy, then that 9 seems perfectly appropriate. I wouldn't 10 limit her. 11 MS. DAVIDSON: That isn't what I 12 was saying, Leigh. I was talking about 13 looking at things on the computer. 14 MS. O'DELL: Okay. Fair. I 15 misunderstood. 16 MS. DAVIDSON: Yes. 17 BY MS. DAVIDSON: 18 Q. Obviously the documents you listed 19 that you have in front of you that are on your 20 reliance list, that's fine. 21 Are any of those documents marked 22 up in any way? 23 A. These documents that -- paper 24 documents? 25 Q. Uh-huh.</p>	<p>Page 31</p> <p>1 So if there are hard copies -- 2 MS. DAVIDSON: I believe -- I 3 believe under the rules of -- Meade, 4 correct me if I'm wrong -- that we're 5 entitled to the benefit of those 6 highlights and underlines of a document 7 that Dr. McTiernan is bringing to the 8 deposition. 9 And my understanding is you guys 10 wanted to do this on Zoom, and we're being 11 accommodating; but obviously, that's 12 something that we would need to see. 13 MS. O'DELL: In the past what we've 14 done is if there -- if this situation 15 comes up -- I don't think it should be 16 controversial now. If there's a situation 17 that comes up, I'm sure Dr. McTiernan will 18 be prepared to describe that to you and 19 provide a hard copy after the deposition. 20 I'm just talking through the 21 technical issue for today. 22 MR. MITCHELL: We'll deal with it 23 when it comes up. Counsel it needs -- 24 we'll see if we can work through it when 25 it comes up.</p> <p>Page 33</p>

<p>1 MS. O'DELL: Fair enough.  2 MS. DAVIDSON: Thank you, Meade.  3 All right.  4 THE WITNESS: Yep.  5 MS. DAVIDSON: I think we can move  6 on now. I think we've covered all the  7 logistical issues.  8 BY MS. DAVIDSON:  9 Q. And let me ask you a question,  10 Dr. McTiernan, on a completely different  11 subject.  12 How much money have you charged  13 plaintiffs to date in the talc litigation?  14 A. So I think you have invoices  15 through 2020. So I did not add up the  16 invoices. I can say that after those invoices,  17 there is 86 and a half hours unbilled as of  18 yet -- I'm sorry, 86 plus 17, so about a little  19 over 100 hours still to be billed.  20 Q. So just to be clear, you haven't  21 billed plaintiffs since 2020?  22 A. No. You have -- you should have  23 invoices -- sorry.  24 You should have invoices through --  25 let's see, yeah, I'm sorry -- through 2022. So</p>	<p>Page 34</p> <p>1 Q. I'm sorry. On 10/6/21, you had two  2 invoices, one for 33,000, one for 20,000?  3 A. I'm going to have to open up my  4 files and look at the invoice and actually see  5 what they stated.  6 Q. Okay. I may have misheard you, but  7 I think you mentioned 10/6/21 twice. The first  8 time you said 33,000, and the second time you  9 said 20,000.  10 A. Yes. And they may have been  11 charged to different accounts. So that may be  12 why there's two, so I'd have to look on it.  13 Q. And so -- and the last bill before  14 that was when?  15 A. Okay. So you don't want me to look  16 at my voices?  17 Q. Let's just go through this since  18 you're in this document.  19 A. Okay. So the last bill before  20 10/6/21 --  21 Q. Uh-huh.  22 A. -- was 8/3/21.  23 Q. And how much was that for?  24 A. 4,250.  25 Q. Okay. And if you go back one more</p>
<p>1 this is after that. It would be about 100  2 hours to be billed.  3 Q. When you say we should have  4 invoices through 2022, what is your basis for  5 that?  6 A. These -- I've closed these out now.  7 I had my invoices open.  8 But just looking at a spreadsheet  9 of hours, I've documented that my last bill was  10 September 2021 -- no, I'm sorry, September of  11 2022.  12 Q. In September 2022, how much did you  13 invoice?  14 A. \$2,250.  15 Q. And what was the invoice before  16 that?  17 A. 10/6/21.  18 Q. And how much was that?  19 A. 33,350.  20 Q. And what was the invoice before  21 that?  22 And I think that will take us to  23 where -- what we have.  24 A. That was 10/6/21, and that was for  25 20 -- 20,000.</p>	<p>Page 35</p> <p>1 before that --  2 MS. O'DELL: I think --  3 BY MS. DAVIDSON:  4 Q. -- what's the date on that?  5 MS. O'DELL: I think that would  6 have been covered, Jessica.  7 She was deposed, and I think after  8 that time. Certainly it was June. So I  9 think you're up to date with anything new  10 since the last deposition.  11 MS. DAVIDSON: Hold on.  12 What was the date of the  13 deposition, Asher?  14 MR. TRANGLE: The most recent  15 deposition?  16 MS. DAVIDSON: Uh-huh.  17 MR. TRANGLE: One second.  18 MS. DAVIDSON: I'm sorry?  19 MR. TRANGLE: I'm just looking.  20 One second.  21 MS. DAVIDSON: Okay. I know it was  22 2021, but I just want to make sure that it  23 was after August 2021.  24 MS. O'DELL: It was. Her -- her  25 report was disclosed --</p>

<p>1           MR. TRANGLE: It was.  2           MS. O'DELL: Okay. Great.  3 BY MS. DAVIDSON:  4           Q. And then you're saying that since  5 September 2022, you have about a hundred  6 unbilled hours, correct?  7           A. Yes.  8           Q. And what is your current billing  9 rate?  10          A. For reviewing documents, it's 500  11 per hour. For deposition, it's 800 per hour.  12          Q. But there haven't been any  13 depositions since 2022, so that hundred hours  14 is going to be billed at 500 an hour, right?  15          A. That's correct.  16          Q. And you're way better at math than  17 I am, but I think that's another \$50,000.  18          A. I'm --  19          Q. Does that sound right?  20          A. I'm not going to estimate right  21 here.  22          Q. But 100 times 500 is 50,000; is my  23 math right?  24          A. Yeah, but it's approximately 100  25 so...</p>	<p>Page 38</p> <p>1 are listed on reliance. I did a search for any  2 new papers in the area. And pretty much that's  3 it, is reviewing -- reviewing those documents  4 and reviewing my previous report, my amended  5 report.  6          Q. Have you reviewed any expert  7 materials from the Mississippi AG case?  8          A. I reviewed the Complaint and the  9 Amended Complaint.  10         Q. Anything else from this case?  11         A. That's all to my knowledge.  12         Q. Do you know who the other plaintiff  13 experts are in this litigation -- in this  14 specific lawsuit?  15         A. I don't know specifically who they  16 are. I've not seen a list of who they'll be.  17         Q. We've been talking a little bit  18 today about your expert disclosures in this  19 matter.  20         MS. DAVIDSON: Asher, let's mark  21 that document as Exhibit 2.  22           (Whereupon, Exhibit No. 2,  23 Plaintiff's Disclosure of Expert  24 Witnesses, was marked for identification.)  25         MS. O'DELL: Are you referring to</p>
<p>Page 39</p> <p>1          Q. So approximately 50,000?  2          A. Yes.  3          Q. Okay. Thank you.  4          Other than talc and Zantac, have  5 you served as an expert in any other litigation  6 in the last five years?  7          A. No.  8          Q. Approximately how much did you  9 charge in total for your work in the Zantac  10 litigation?  11         A. So that would have been  12 approximately 500,000.  13         Q. And are you still working on  14 Zantac?  15         A. No.  16         Q. When did you stop working on  17 Zantac?  18         A. December 2022.  19         Q. And are you currently working on  20 any other litigation besides talc?  21         A. No.  22         Q. How did you prepare for today's  23 deposition?  24         A. I've read through my report. I've  25 read through the papers that I mentioned that</p>	<p>Page 41</p> <p>1 the Plaintiff's Disclosure of Expert  2 Witnesses?  3          MS. DAVIDSON: Yeah. Asher, will  4 mark it and put it up on the screen.  5          MS. O'DELL: But it's -- just for  6 the record, it's not Dr. McTiernan's  7 disclosure. It's a pleading filed in the  8 case.  9 BY MS. DAVIDSON:  10         Q. Dr. McTiernan, have you seen this  11 document before?  12         A. I only see a little piece of it, so  13 I'm not sure.  14         Q. Well, just -- have you ever seen a  15 document titled "Plaintiff's Disclosure of  16 Expert Witnesses in the State of Mississippi  17 Versus J&amp;J"?'  18         A. Yes.  19         Q. And when did you see this document?  20         A. I think it was recent. I can't  21 remember if it was last week when I first saw  22 it.  23           And I just looked at it today when  24 you asked me a question earlier.  25         Q. So you had not seen this document</p>

<p>1 until last week?</p> <p>2 A. I don't believe. I'd have to look</p> <p>3 at my e-mails to see when I would have received</p> <p>4 it.</p> <p>5 Q. Do you have a recollection of</p> <p>6 reviewing a draft of this document before it</p> <p>7 was submitted?</p> <p>8 A. No.</p> <p>9 Q. Did you meet with anyone from</p> <p>10 plaintiff's counsels office or any of</p> <p>11 plaintiff's multiple counsel to prepare for</p> <p>12 this deposition?</p> <p>13 A. Yes.</p> <p>14 Q. With whom did you meet?</p> <p>15 A. With Ms. O'Dell, with Ms. Parfitt,</p> <p>16 and for some meetings Mr. Green and Mr. Lyons.</p> <p>17 Q. How many meetings were there in</p> <p>18 total?</p> <p>19 A. I would have to count that up. I'm</p> <p>20 happy to do that, but I don't know exactly.</p> <p>21 Q. Approximately how many times did</p> <p>22 you meet with counsel to prepare for this</p> <p>23 deposition?</p> <p>24 A. Okay. I'll look at my spreadsheet</p> <p>25 here because I do mark them whether they're a</p>	<p>Page 42</p> <p>1 to the degree that this seeks information</p> <p>2 and communications between Dr. McTiernan</p> <p>3 and counsel and instruct her not to</p> <p>4 answer.</p> <p>5 MS. DAVIDSON: So my understanding</p> <p>6 is that we are allowed to ask about what</p> <p>7 documents were looked at. We're not</p> <p>8 allowed to ask about communications.</p> <p>9 That is my understanding of the</p> <p>10 law.</p> <p>11 MS. O'DELL: I -- I don't -- I</p> <p>12 think you -- that question delved into</p> <p>13 communications, and that's the basis of my</p> <p>14 objection.</p> <p>15 And -- and so I would instruct her</p> <p>16 not to answer.</p> <p>17 If -- you've already asked her</p> <p>18 about documents that she's seen that are</p> <p>19 not on her reliance list. You can</p> <p>20 certainly explore that but not about the</p> <p>21 content of the Zoom calls, what was shown,</p> <p>22 et cetera, discussions that took place,</p> <p>23 because that deals with --</p> <p>24 MS. DAVIDSON: I'm not asking about</p> <p>25 discussions.</p>
<p>Page 43</p> <p>1 call or not.</p> <p>2 Q. When you say your spreadsheet, what</p> <p>3 are you referring to?</p> <p>4 A. Where I record the hours that I've</p> <p>5 worked.</p> <p>6 Q. I see. Okay.</p> <p>7 A. Somewhere between five and seven</p> <p>8 Zoom meetings.</p> <p>9 Q. Over what period did these Zoom</p> <p>10 meetings take place?</p> <p>11 A. Beginning August 2023.</p> <p>12 Q. And approximately how long did each</p> <p>13 Zoom last?</p> <p>14 A. Usually about an hour.</p> <p>15 Q. Were you shown any documents at any</p> <p>16 of these Zoom meetings that are not listed on</p> <p>17 your materials considered?</p> <p>18 A. I don't recall seeing anything no.</p> <p>19 Q. Were you shown the miner and miller</p> <p>20 studies at those meetings?</p> <p>21 MS. O'DELL: Objection --</p> <p>22 THE WITNESS: For which studies.</p> <p>23 MS. O'DELL: Excuse me.</p> <p>24 THE WITNESS: Oh, sorry.</p> <p>25 MS. O'DELL: So I'm going to object</p>	<p>Page 45</p> <p>1 BY MS. DAVIDSON:</p> <p>2 Q. I'm just asking whether you looked</p> <p>3 at any miner or miller studies during any of</p> <p>4 those Zooms, and I believe that is an</p> <p>5 appropriate question.</p> <p>6 MS. O'DELL: I do not believe</p> <p>7 that's an appropriate question. Because</p> <p>8 you're asking if we talked about the miner</p> <p>9 or miller studies during the conversation,</p> <p>10 whether that occurred, and that delves</p> <p>11 into the communication of counsel; and I'm</p> <p>12 instructing Dr. McTiernan not to answer</p> <p>13 the question.</p> <p>14 MS. DAVIDSON: I'm asking about</p> <p>15 documents reviewed in those prep sessions,</p> <p>16 and my understanding is that documents</p> <p>17 reviewed in a prep session are fair game</p> <p>18 to know the identities of them not the</p> <p>19 discussion regarding them that took place.</p> <p>20 Unless Mississippi law the so</p> <p>21 generous, that is generally the law.</p> <p>22 MS. O'DELL: That is -- that is not</p> <p>23 the law.</p> <p>24 Discussions about documents that --</p> <p>25 that -- and the content of meetings with</p>

<p>1 experts and specific topics such as a 2 particular paper, that is protected by the 3 work product privilege; and I'm going to 4 instruct Dr. McTiernan not to answer.</p> <p>5 MS. DAVIDSON: So you are 6 instructing her not to identify any 7 documents that she looked at on any Zoom?</p> <p>8 MS. O'DELL: Correct.</p> <p>9 BY MS. DAVIDSON:</p> <p>10 Q. Have you published any papers 11 relating to talcum powder or ovarian cancer 12 since your last deposition?</p> <p>13 A. I believe on my CV I do mention the 14 one that you mentioned before we got on the 15 call. So I need to look at that. And it's 16 not -- the subject matter is not talcum powder, 17 but I think did disclose my expert witness work 18 so...</p> <p>19 Q. Are you talking about the exercise 20 paper?</p> <p>21 A. Yes.</p> <p>22 Q. Have you given any speeches related 23 to talcum powder since your last deposition?</p> <p>24 A. No.</p> <p>25 Q. Have you written anything online or</p>	<p>1 asking about communications with counsel, 2 I can amend the question to be "have you 3 written anything online or elsewhere, 4 other than communications with counsel, 5 related to talcum powder since your last 6 deposition.</p> <p>7 MS. O'DELL: Thank you.</p> <p>8 THE WITNESS: I'm going to -- I'm 9 searching through for a paper that I -- 10 where I mentioned talcum powder in 11 relation to avoiding carcinogens.</p> <p>12 So I need to look through my CV to 13 determine what that was.</p> <p>14 The last deposition was 2021, 15 correct?</p> <p>16 BY MS. DAVIDSON:</p> <p>17 Q. Correct.</p> <p>18 A. So it would have to be after that.</p> <p>19 Q. I'm sorry. Dr. McTiernan, can you 20 tell us what you're looking at?</p> <p>21 A. So I'm looking through my papers 22 published in recent years to see if any of 23 these include mention of talcum.</p> <p>24 Q. So I think I wasn't clear.</p> <p>25 Because this is a deposition,</p>
<p>1 elsewhere about talcum powder since your last 2 deposition?</p> <p>3 A. Could you repeat the question?</p> <p>4 MS. O'DELL: Court Reporter, could 5 you repeat my question just so we repeat 6 it accurately?</p> <p>7 THE WITNESS: So could you repeat 8 the question?</p> <p>9 THE COURT REPORTER: I --</p> <p>10 THE WITNESS: Oh, okay.</p> <p>11 THE COURT REPORTER: That's okay.</p> <p>12 (At which time the following was 13 read back:</p> <p>14 "Question: Have you written 15 anything online or elsewhere about talcum 16 powder since your last deposition?"</p> <p>17 MS. O'DELL: Object to the form.</p> <p>18 And you're talking about something 19 published for the public, correct? Is 20 that the question?</p> <p>21 Online, in a book, et cetera, but 22 you're talking about a public document, 23 correct?</p> <p>24 MS. DAVIDSON: I'm talking about 25 any doc- -- if you're concerned that I'm</p>	<p>1 because we're not in person, I can't see what 2 you're looking at. So what I had asked was 3 that we introduce as an exhibit anything that 4 you're looking at.</p> <p>5 So if you're looking at your CV, 6 let's introduce that as an exhibit; and let's 7 look at the right version of it.</p> <p>8 So that's what I had asked when I 9 said, can you please close whatever programs --</p> <p>10 A. Okay. Okay.</p> <p>11 And so the only one that I can 12 think of is the one that you referred to when 13 we were off camera.</p> <p>14 So this is dose finding in Physical 15 Activity and Cancer Risk Reduction.</p> <p>16 Q. And that article's not actually 17 about talcum powder, correct?</p> <p>18 A. Correct.</p> <p>19 Q. It's about exercise?</p> <p>20 A. That's right.</p> <p>21 Q. Okay. Let's, for the sake of 22 having a proper record -- you were just looking 23 at your CV; is that correct?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Let's introduce the CV as</p>

<p>1 Exhibit 3. And I'm going to ask you once  2 again, please, if you -- to refrain from  3 looking at documents unless you tell me in  4 advance that you're looking at something and  5 that we can have a clear record that every  6 document you're looking at is something that's  7 introduced on the record, as would be the case  8 if we were doing a deposition in person.  9 MS. O'DELL: For the record,  10 Jessica, I think she mentioned she was  11 looking at her CV earlier. I think that  12 you may not have heard her, but I'm glad  13 you're marking it as an exhibit, right?  14 MS. DAVIDSON: Yeah. Let's just  15 mark everything, and also make sure we're  16 all looking at the same version because I  17 don't know what version of the CV is on  18 her computer. That's why I think it's  19 better if we do this the proper way.  20 (Whereupon, Exhibit No. 3,  21 Curriculum Vitae of Anne McTiernan, M.D.,  22 Ph.D., was marked for identification.)  23 BY MS. DAVIDSON:  24 Q. Okay. So I think we've concluded  25 that you have not published any articles</p>	<p>Page 50</p> <p>1 Q. Do you have any forthcoming  2 publications, speeches, or presentations  3 related to talcum powder?  4 A. No.  5 Q. Do you have any forthcoming  6 publications, speeches, or presentations  7 related to ovarian cancer?  8 A. Can you repeat the question?  9 Q. Sure.  10 MS. DAVIDSON: Suzanne, you want to  11 repeat the question.  12 (At which time the following was  13 read back:  14 "Question: Do you have any  15 forthcoming publications, speeches, or  16 presentations related to ovarian cancer?")  17 THE WITNESS: My answer would be  18 no.  19 BY MS. DAVIDSON:  20 Q. On the screen is a copy of the CV  21 that you produced on December 23rd [sic].  22 Is this CV current and accurate?  23 A. I'll need to --  24 MS. O'DELL: I think -- I think it  25 was September 2020. I think you said</p>
<p>1 regarding talcum powder since your last  2 deposition.  3 MS. O'DELL: Object to the form.  4 BY MS. DAVIDSON:  5 Q. Have you published any articles or  6 papers about asbestos since your last  7 deposition?  8 A. The -- no, I have not published  9 anything with the particular topic was  10 asbestos; but without going through all of my  11 papers, I can't state that there's no mention  12 of asbestos in that paper.  13 Q. Sitting here today, do you have any  14 recollection of anything you might have written  15 involving asbestos?  16 A. Are you -- when you say I might  17 have, do you mean since my last deposition or  18 ever?  19 Q. I do. Since your last deposition.  20 A. And as far as I know, I did not  21 write anything where the topic was asbestos. I  22 do not know if the -- if the word "asbestos"  23 shows up in a paper or any reference. I can't  24 specify that -- I can't answer that without  25 going through everything.</p>	<p>Page 51</p> <p>1 December 23rd.  2 Jessica, is that you what you  3 intended to say?  4 MS. DAVIDSON: September 2023.  5 MS. O'DELL: Thank you.  6 THE WITNESS: So I would need to  7 see this in total. I'd need to see the  8 first page if I'm going to say if that's  9 the most accurate.  10 I know what I sent through to  11 the law- -- Ms. Parfitt and O'Dell that  12 that was the most current at the time I  13 sent it, but I can't see what this one is  14 saying.  15 BY MS. DAVIDSON:  16 Q. As you can see on the bottom  17 right-hand corner, it says 9/16/2023, correct?  18 A. I don't see anything like that.  19 It -- it stops at Harborview Medical Center on  20 my screen.  21 Q. That's strange. Mine says the  22 date.  23 Do you see the date, 9/16/2023?  24 A. No.  25 Q. Are you looking at the Zoom screen</p>

<p>1 on a lap- -- on a monitor, on a computer 2 monitor?</p> <p>3 A. No. Laptop.</p> <p>4 Q. And is the document that's up on 5 the screen in the center of your laptop?</p> <p>6 A. Okay. Now I've got a different 7 view. It says 9/16/2023. Okay.</p> <p>8 Q. And do you have a more recent CV 9 than 9/16/2023?</p> <p>10 A. Okay. So I need to look at my 11 computer for that. I don't believe I do, but 12 I'll look.</p> <p>13 No 9/16/2023 is the most recent 14 that I have.</p> <p>15 Q. The last time you were deposed was 16 August 2021 in the talc litigation; is that 17 correct?</p> <p>18 A. I don't know the exact date. Hold 19 on.</p> <p>20 Q. Are you looking at something?</p> <p>21 A. Yes. The same list that you were 22 sent. I don't know if you can see this.</p> <p>23 Q. Oh, okay.</p> <p>24 A. But it's the prior deposition trial 25 and hearing testimony of -- for me.</p>	<p>1 A. Yes.</p> <p>2 Q. Have your opinions changed since 3 that deposition and that trial?</p> <p>4 A. My opinions on?</p> <p>5 Q. That you're offering in this 6 litigation, are they the same as the opinions 7 that you offered in that deposition and that 8 trial?</p> <p>9 A. Yes.</p> <p>10 Q. Are all of the opinions you intend 11 to provide in this case included in prior 12 reports and prior testimony?</p> <p>13 A. My overall opinion about causation 14 has not changed, you know, from this previous 15 testimony and deposition; however, I do have 16 additional articles on my reliance list.</p> <p>17 Q. Have any of your opinions changed 18 in any way based on the additional articles in 19 your reliance list?</p> <p>20 A. My opinions have not changed. 21 They've just been reaffirmed by the articles on 22 the reliance list, the new articles.</p> <p>23 Q. Did you remove any articles from 24 your reliance list or any other papers or 25 entries?</p>
<p>1 Q. Okay. Great. Let's introduce that 2 as Exhibit 4.</p> <p>3 And again, if you're looking at 4 something --</p> <p>5 A. Yeah.</p> <p>6 Q. -- if you go to read something, 7 please first let me know what it is so that we 8 can have a proper record.</p> <p>9 MS. DAVIDSON: Asher, let's mark as 10 Exhibit 4 prior testimony and put it up on 11 the screen.</p> <p>12 (Whereupon, Exhibit No. 4, Prior 13 Deposition, Trial and Hearing Testimony of 14 Anne McTiernan, M.D., Ph.D., was marked 15 for identification.)</p> <p>16 MR. TRANGLE: Just one second. I'm 17 sorry.</p> <p>18 BY MS. DAVIDSON:</p> <p>19 Q. In any event, while he's putting it 20 up on the screen, Dr. McTiernan, is it correct 21 you were deposed in August 2021?</p> <p>22 A. The deposition, yes, August 19th, 23 2021.</p> <p>24 Q. And you testified in a trial called 25 Giese, correct?</p>	<p>1 A. When you say did I remove, do you 2 mean from the old list?</p> <p>3 Q. Uh-huh.</p> <p>4 A. I don't recall removing anything, 5 but I -- I could be wrong. I don't recall 6 removing anything.</p> <p>7 Q. Are you offering an opinion in this 8 case about whether talc contains asbestos?</p> <p>9 A. Yes. I've already given that as 10 part of my opinion in previous depositions and 11 testimony, and that has not changed.</p> <p>12 Q. Your opinion that you're offering 13 in this litigation that talc contains asbestos, 14 what is that based on?</p> <p>15 MS. O'DELL: Objection. 16 So Jessica, that is a complete redo 17 of material that's been covered in the 18 initial deposition in early 2019, her 19 supplemental deposition; and I think we've 20 agreed not to replow that ground.</p> <p>21 BY MS. DAVIDSON:</p> <p>22 Q. Are you offering the opinion that 23 every bottle of Johnson's Baby Powder sold in 24 Mississippi contained asbestos?</p> <p>25 MS. O'DELL: Objection to the form.</p>

<p>1        THE WITNESS: I have done -- I have 2        not done a review of the contents of baby 3        powder bottles in Mississippi. 4 BY MS. DAVIDSON: 5        Q. I understand that you haven't done 6        such a review. 7        Does that mean you're not offering 8        an opinion that every bottle of baby powder 9        sold in Mississippi contains asbestos? 10       MS. O'DELL: Objection to the form. 11       Asked and answered. 12       Dr. McTiernan's being offered as an 13       epidemiologist not as a testing expert for 14       talcum powder, and specifically talcum 15       powder sold in Mississippi. 16 BY MS. DAVIDSON: 17       Q. You can answer. 18       A. Can you repeat the question, 19       please, or have it repeated? 20       Q. Sure. 21       THE COURT REPORTER: Would you like 22       me to repeat it? 23       MS. DAVIDSON: Yes. 24       THE COURT REPORTER: Okay. 25       MS. DAVIDSON: I have a very short</p>	<p>Page 58</p> <p>1 report? 2 Q. I'm referring to your use of the 3 word "biological mechanism" in your last 4 answer, however you were using it. 5 A. Okay. So I was referring to 6 biological mechanism that I reviewed studies 7 for -- for my causal analysis of -- the 8 question is does talcum powder product exposure 9 cause ovarian cancer. 10 And for that, I did a causal 11 analysis; and part of that is to do a review of 12 potential biological mechanisms. 13 Q. Have you done any additional review 14 of the potential biological mechanisms since 15 2021? 16 A. I need to look at my reliance list. 17 MS. O'DELL: Suzanne, would you 18 mind repeating the question, please. 19 (At which time the following was 20 read back: 21 "Question: Have you done any 22 additional review of the potential 23 biological mechanisms since 2021?") 24 BY MS. DAVIDSON: 25 Q. Are you looking at the reliance</p>
<p>Page 59</p> <p>1 short-term memory. So anytime someone 2 asks me to repeat a question, I'd 3 appreciate if you did it. 4 THE COURT REPORTER: Yes. 5 (At which time the following was 6 read back: 7       "Question: I understand that you 8       haven't done such a review. Does that 9       mean you're not offering an opinion that 10       every bottle of baby powder sold in 11       Mississippi contains asbestos?") 12       MS. O'DELL: Same objection. 13       THE WITNESS: Of -- of my expertise 14       that I'm an offering as my opinion based 15       on epidemiology and biological mechanisms 16       in my causation analysis, I have not 17       reviewed data or studies on the contents 18       of baby powder sold in the state of 19       Mississippi. 20 BY MS. DAVIDSON: 21       Q. What expertise do you have about 22       biological mechanism? 23       A. When you say "biological 24       mechanism," are you referring to talcum powder 25       products and risk of ovarian cancer as in my</p>	<p>Page 61</p> <p>1 list we've been discussing today? 2 A. Yes. 3 MS. DAVIDSON: Okay. We haven't 4 marked that yet, I believe, correct, 5 Asher? 6 MR. TRANGLE: Correct. 7 MS. DAVIDSON: Let's mark it and 8 put it up on the screen. 9 (Whereupon, Exhibit No. 5, Anne 10 McTiernan, M.D., Ph.D. - Materials 11 Considered List, was marked for 12 identification.) 13 MS. DAVIDSON: So we're marking as 14 Exhibit 5, Anne McTiernan's Materials 15 Considered List, 17 pages. 16 And why don't we go toward -- to 17 the end where you have your additional -- 18 BY MS. DAVIDSON: 19 Q. Do you see where it says Zuckerman, 20 and that's the end of the alphabetical list? 21 A. Yes. 22 Q. Is everything after that what you 23 reviewed since 2021? 24 A. I don't see it on there. I don't 25 see it here.</p>

<p>1 Q. You don't see what?</p> <p>2 A. I think we need to scroll to the</p> <p>3 next page.</p> <p>4 Q. I'm asking, though -- I don't --</p> <p>5 you may not understand my question, if we could</p> <p>6 go back.</p> <p>7 But is anything you reviewed after</p> <p>8 2021 listed under Zuckerman?</p> <p>9 That's my question.</p> <p>10 A. You mean listed before Zuckerman?</p> <p>11 Q. The first 15 and a half pages of</p> <p>12 this reliance list are in alphabetical order,</p> <p>13 correct.</p> <p>14 A. I think so. I don't have the full</p> <p>15 pages --</p> <p>16 Q. Okay.</p> <p>17 A. -- in front of me. I have the</p> <p>18 additions, the new reliance list.</p> <p>19 Q. And the last -- the last</p> <p>20 alphabetical listing is Zuckerman.</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. And after that, is everything</p> <p>24 listed after that the full body of materials</p> <p>25 that you reviewed and considered after 2021?</p>	<p>Page 62</p> <p>1 benefit of the entire document, I would</p> <p>2 appreciate it.</p> <p>3 BY MS. DAVIDSON:</p> <p>4 Q. So are -- are the documents on</p> <p>5 pages 16, the bottom half of 16 and the top</p> <p>6 half of 17, the documents that you've reviewed</p> <p>7 since 2021?</p> <p>8 I'm sorry. Dr. McTiernan, what are</p> <p>9 you doing right now?</p> <p>10 A. I'm trying to get this open and</p> <p>11 saved so I can actually look at it, but I</p> <p>12 can't. I'm having troubles.</p> <p>13 MS. DAVIDSON: Asher, can you put</p> <p>14 pages 16 and 17 next to each other on the</p> <p>15 screen.</p> <p>16 THE WITNESS: I think it will be</p> <p>17 too small then. Okay. I have something</p> <p>18 now that I can read.</p> <p>19 Okay. I'm not sure if I'm the only</p> <p>20 one controlling this or if Asher's also</p> <p>21 controlling it because it's moving all</p> <p>22 over.</p> <p>23 MS. DAVIDSON: I think Asher was</p> <p>24 doing that.</p> <p>25 MR. TRANGLE: Yeah.</p>
<p>1 A. I don't see anything here. This --</p> <p>2 on the screen it stops at page 16.</p> <p>3 Q. Right. There's pages 16, and then</p> <p>4 there's page 17. My question --</p> <p>5 A. Okay. I'm not seeing that on my</p> <p>6 screen.</p> <p>7 Q. Understood. But my question is</p> <p>8 very simple.</p> <p>9 On the -- on the Materials</p> <p>10 Considered List that was provided to us, is</p> <p>11 everything that you looked at after 2021 listed</p> <p>12 after Zuckerman?</p> <p>13 A. Oh, everything that I looked at</p> <p>14 that was new is -- was after Zuckerman on the</p> <p>15 copy that I've seen. I don't know what you</p> <p>16 have here, so I can't say what's -- I can't say</p> <p>17 yes or no to that because it's not being shown</p> <p>18 on the screen.</p> <p>19 Q. Asher did show it to you. He's</p> <p>20 flipped to page 17. He can flip to page 17</p> <p>21 again.</p> <p>22 MS. O'DELL: And -- and just as we</p> <p>23 agreed to in the beginning of the</p> <p>24 deposition, Asher, if you could just put</p> <p>25 that in the chat so Dr. McTiernan has the</p>	<p>Page 63</p> <p>1 MS. DAVIDSON: Okay.</p> <p>2 MR. TRANGLE: Can you see what's at</p> <p>3 the top of the page?</p> <p>4 THE WITNESS: All I'm seeing right</p> <p>5 now is pieces of a screen. I'm seeing</p> <p>6 parts of Institute of Medicine, part of</p> <p>7 cancer cause and control, part of a Lynch</p> <p>8 paper; and that's about all I can see.</p> <p>9 MR. TRANGLE: Yeah. That -- that's</p> <p>10 all that's on this page. I can go to the</p> <p>11 previous page.</p> <p>12 Did you want to see that?</p> <p>13 THE WITNESS: Now you're on page 1.</p> <p>14 So if you have something starting with</p> <p>15 American Public Health Associations after</p> <p>16 the Zuckerman --</p> <p>17 MR. TRANGLE: Yep. That's on --</p> <p>18 that's on the screen --</p> <p>19 THE WITNESS: -- article.</p> <p>20 MR. TRANGLE: -- that's on the</p> <p>21 screen right now.</p> <p>22 THE WITNESS: My screen says</p> <p>23 page 1, document name AMA Analytic</p> <p>24 Services. So this is all old.</p> <p>25 MR. TRANGLE: Are you looking at</p>

<p>1 the screenshare.</p> <p>2 THE WITNESS: Oh, sorry. Okay.</p> <p>3 Now I see it. American Public Health,</p> <p>4 okay.</p> <p>5 Okay. So then there's some more</p> <p>6 after foam -- whoops. Now it disappeared.</p> <p>7 MR. TRANGLE: I was just scrolling</p> <p>8 to the next page.</p> <p>9 THE WITNESS: Okay.</p> <p>10 MR. TRANGLE: So it continues.</p> <p>11 BY MS. DAVIDSON:</p> <p>12 Q. Dr. McTiernan, do you remember my</p> <p>13 question?</p> <p>14 A. No, but I'm just trying to -- it's</p> <p>15 something about -- I'm just trying to see what</p> <p>16 these are and if they agree with what I</p> <p>17 understand.</p> <p>18 Q. Would you like me to reiterate my</p> <p>19 question?</p> <p>20 A. In a minute, please, yeah.</p> <p>21 Q. This is the same reliances that you</p> <p>22 produced to us, so I'm not sure exactly what</p> <p>23 this discussion is, what the delay is right</p> <p>24 now.</p> <p>25 A. Okay. I think I have a version</p>	<p>Page 66</p> <p>1 A. Of the new documents as far as I</p> <p>2 know.</p> <p>3 Q. Are you offering an opinion as to</p> <p>4 whether exposure to asbestos -- alleged</p> <p>5 asbestos in talc is similar to the level of</p> <p>6 exposure that a person would have from</p> <p>7 occupational exposure to talc?</p> <p>8 A. I did not in my -- in my report and</p> <p>9 the reviews that I have done -- that I've read,</p> <p>10 I've not considered the exact amount of talc --</p> <p>11 of asbestos in talcum powder compared to</p> <p>12 occupational exposure.</p> <p>13 Certainly occupational exposure has</p> <p>14 a range of exposures which could overlap what's</p> <p>15 in a talcum bottle at some points, but it could</p> <p>16 be more at some points.</p> <p>17 So I'm not -- I'm not an expert in</p> <p>18 assessing content -- amount of asbestos that</p> <p>19 could be contained in particular bottles of</p> <p>20 talc.</p> <p>21 Q. Are you offering an opinion in this</p> <p>22 Mississippi case as to whether talc that's</p> <p>23 inhaled can cause ovarian cancer?</p> <p>24 A. In my report, it's certainly</p> <p>25 included as a potential way for talc and</p>
<p>Page 67</p> <p>1 that was just before some corrections were made</p> <p>2 to this. So that was what I was confused about</p> <p>3 what you were looking at.</p> <p>4 But I still don't have this</p> <p>5 available -- available to me to download or</p> <p>6 print off. So it looks like I'm just -- all I</p> <p>7 see is what's on your screen.</p> <p>8 Could you repeat the question?</p> <p>9 Q. Sure.</p> <p>10 MS. DAVIDSON: Court Reporter, can</p> <p>11 you repeat the question?</p> <p>12 THE COURT REPORTER: Just give me a</p> <p>13 minute to scroll back to it.</p> <p>14 I think this is the last question.</p> <p>15 (At which time the following was</p> <p>16 read back:</p> <p>17 "Question: So are -- are the</p> <p>18 documents on pages 16, the bottom half of</p> <p>19 16 and the top half of 17, the documents</p> <p>20 that you've reviewed since 2021?")</p> <p>21 THE WITNESS: So my answer, these</p> <p>22 are the new documents that I've reviewed</p> <p>23 sips the last deposition and testimony.</p> <p>24 BY MS. DAVIDSON:</p> <p>25 Q. And this is a complete list?</p>	<p>Page 69</p> <p>1 contain -- content asbestos to reach various</p> <p>2 parts of the body, yes.</p> <p>3 Q. Can you tell me what studies you're</p> <p>4 relying on for your inhalation opinion in this</p> <p>5 Mississippi case?</p> <p>6 MS. O'DELL: I just object to the</p> <p>7 question.</p> <p>8 Jessica, I think she was examined</p> <p>9 at length on inhalation for her 2019</p> <p>10 deposition, and she testified to that at</p> <p>11 that time.</p> <p>12 BY MS. DAVIDSON:</p> <p>13 Q. I didn't see it there, and so I</p> <p>14 just need to know for this case what -- what</p> <p>15 literature you're relying on in this case to</p> <p>16 support an inhalation opinion?</p> <p>17 MS. O'DELL: Again, Dr. McTiernan,</p> <p>18 you're welcome to answer that.</p> <p>19 But again, this is an area where</p> <p>20 she was -- she was -- she was examined on</p> <p>21 previously.</p> <p>22 BY MS. DAVIDSON:</p> <p>23 Q. Go ahead.</p> <p>24 A. The IARC 2012 100C document does</p> <p>25 discuss inhalation as a way of -- that -- a</p>

<p>1 root of exposure. And also, the Nowak study  2 the Nowak, which is a systematic review and  3 meta-analysis of asbestos in relation to  4 ovarian cancer, that they also do mention  5 inhalation.</p> <p>6 Yeah. I think this would be a  7 great time for a break.</p> <p>8 Q. Who's asking for a break?</p> <p>9 A. I am.</p> <p>10 MS. O'DELL: How long do you need,  11 Dr. McTiernan?</p> <p>12 THE WITNESS: About five, ten  13 minutes.</p> <p>14 MS. O'DELL: Okay.</p> <p>15 THE VIDEOGRAPHER: Are we going off  16 the record? Counsel?</p> <p>17 MS. O'DELL: Yes. Five, ten  18 minutes if you need a quick break,  19 Dr. McTiernan.</p> <p>20 THE VIDEOGRAPHER: The time is  21 11:18 a.m. We're off the record.</p> <p>22 (Whereupon, a break was taken.)</p> <p>23 THE VIDEOGRAPHER: The time is  24 11:28 a.m. We're back on the record.</p> <p>25</p>	<p>Page 70</p> <p>1 does discuss inhaled fibers.</p> <p>2 Q. Can you show me where?</p> <p>3 MS. DAVIDSON: Let's put that --</p> <p>4 let's mark Nowak as exhibit --</p> <p>5 MR. TRANGLE: 6.</p> <p>6 MS. DAVIDSON: 6.  7 (Whereupon, Exhibit No. 6,  8 Publication entitled, "Asbestos Exposure  9 and Ovarian Cancer - a Gynaecological  10 Occupational Disease, Background,  11 Mandatory Notification, Practical  12 Approach," by Dennis Nowak, et al., was  13 marked for identification.)</p> <p>14 THE WITNESS: So on my version,  15 page 4 out of 24, the section is talking  16 about pathomechanism of asbestos effects  17 in humans, especially in the ovary target  18 organ -- organ.</p> <p>19 It talks about inhaled asbestos  20 fibers.</p> <p>21 BY MS. DAVIDSON:</p> <p>22 Q. I'm sorry. Does this paper talk  23 about inhaled talcum powder?</p> <p>24 A. It says --</p> <p>25 MS. O'DELL: I'm sorry. Excuse me.</p>
<p>1 BY MS. DAVIDSON:</p> <p>2 Q. Now, Dr. McTiernan, right before we  3 went off the record, I was asking you about  4 inhalation studies involving talc; and you  5 Nowak and IARC, correct?</p> <p>6 A. Yes.</p> <p>7 Q. Does either of those studies  8 reference talcum powder -- either of those  9 papers -- obviously IARC's not a study.</p> <p>10 Does either of those papers you're  11 referring to reference talcum powder?</p> <p>12 A. IARC does state -- so I'm looking  13 at the first page of the IARC 2012 100C,  14 section on asbestos. And the first paragraph  15 under 1.1 Identification of the Agent.</p> <p>16 And so they state that this section  17 is discussing any type of asbestos, and they  18 list off chrysotile, actinolite, amosite,  19 anthophyllite, crocidolite, and tremolite. And  20 then they said it also includes talc containing  21 asbestos form fibers. And so -- so that is  22 that one.</p> <p>23 And then Nowak, I need to look at  24 that. So I'm looking at a paper copy of Nowak.</p> <p>25 So Nowak does discuss talcum and</p>	<p>Page 71</p> <p>1 Dr. McTiernan, if you weren't  2 finished with your last answer, please  3 continue.</p> <p>4 THE WITNESS: Okay. So it talks  5 about inhaled asbestos fiber, and it  6 states that asbestos fibers are primarily  7 inhaled with the air we breathe.</p> <p>8 And then it talks about the use of  9 talcum powder and association with risk  10 for ovarian cancer.</p> <p>11 BY MS. DAVIDSON:</p> <p>12 Q. Does this paper talk about  13 inhalation of talcum powder?</p> <p>14 A. It talks about --</p> <p>15 MS. O'DELL: Object to the form.</p> <p>16 You may answer. Excuse me, Doctor.</p> <p>17 THE WITNESS: It talks about  18 asbestos fibers being primarily inhaled  19 with the air we breathe.</p> <p>20 BY MS. DAVIDSON:</p> <p>21 Q. I understand.</p> <p>22 My question is: Does it talk about  23 inhalation of talcum powder specifically?</p> <p>24 MS. O'DELL: Object to the form.</p> <p>25 THE WITNESS: It does state that</p>

<p>1 asbestos fibers can be transvaginally 2 introduced, and so that -- so it talks 3 about two different ways that asbestos 4 fibers can -- can reach the ovary or body 5 areas.</p> <p>6 BY MS. DAVIDSON:</p> <p>7 Q. I'm sorry. Do you remember my 8 question?</p> <p>9 A. Why don't you repeat it.</p> <p>10 Q. What -- what did you think I had 11 asked?</p> <p>12 MS. O'DELL: Dr. McTiernan, if 13 you'd like the -- Ms. Stotz to repeat the 14 question, I'm sure she'll do that.</p> <p>15 THE WITNESS: Please.</p> <p>16 (At which time the following was 17 read back:</p> <p>18 "Question: Does this paper talk 19 about inhalation of talcum powder?"</p> <p>20 MS. DAVIDSON: I think I had the 21 word "specifically" there, Suzanne.</p> <p>22 THE COURT REPORTER: Then -- then 23 there's an objection, and the next 24 question was...</p> <p>25 (At which time the following was</p>	<p>Page 74</p> <p>1 THE VIDEOGRAPHER: The time is 2 11:35 a.m. We're off the record. 3 (Whereupon, a break was taken.)</p> <p>4 THE VIDEOGRAPHER: The time is 5 11:43 a.m. We're back on the record.</p> <p>6 BY MS. DAVIDSON:</p> <p>7 Q. Dr. McTiernan, did you talk to your 8 counsel during the break?</p> <p>9 A. No.</p> <p>10 Q. Do you remember what question was 11 pending when we went on the break?</p> <p>12 A. It would be great if I could have 13 it read again.</p> <p>14 THE COURT REPORTER: Give me a 15 moment.</p> <p>16 The last question before the break 17 was...</p> <p>18 (At which time the following was 19 read back:</p> <p>20 "Question: Dr. McTiernan, do you 21 need to review every article on your" --)</p> <p>22 MS. DAVIDSON: No, no, no. The 23 last sensitive question.</p> <p>24 THE COURT REPORTER: Okay.</p> <p>25 (At which time the following was</p>
<p>Page 75</p> <p>1 read back:</p> <p>2 "Question: I understand. My 3 question is: Does it talk about 4 inhalation of talcum powder 5 specifically?"</p> <p>6 THE COURT REPORTER: That was the 7 last ans- -- question. Sorry.</p> <p>8 THE WITNESS: To answer this 9 question accurately, I'm going to need 10 some time to reread this paper.</p> <p>11 MS. DAVIDSON: Why don't we go off 12 the record.</p> <p>13 BY MS. DAVIDSON:</p> <p>14 Q. This paper was on your reliance 15 list, correct?</p> <p>16 A. Yes, but I didn't have every word 17 memorized; so I need to review it to answer 18 that specific question.</p> <p>19 Q. Dr. McTiernan, do you need to 20 review every article on your reliance list that 21 I'm going to ask you detailed questions about?</p> <p>22 A. It depends on the -- it depends on 23 the question.</p> <p>24 Q. Okay. Let's go off the record.</p> <p>25 Let us know when you're ready.</p>	<p>Page 77</p> <p>1 read back:</p> <p>2 "Question: I understand. My 3 question is: Does it talk about 4 inhalation of talcum powder 5 specifically?"</p> <p>6 BY MS. DAVIDSON:</p> <p>7 Q. Have you been able over the break 8 to determine your answer to that question?</p> <p>9 A. Yes.</p> <p>10 Q. And what's the answer.</p> <p>11 A. So I'm looking at the Nowak paper. 12 That was the question. And on page 7, halfway 13 down, it's talking about possible occupational 14 exposures for gynecologists to inquire about to 15 get a history, a medical history of patients 16 with ovarian cancer. That's the title of this 17 section.</p> <p>18 Halfway down it says, "Important 19 sources of danger for inhalation of asbestos 20 dust are or were in particular"; and then 21 there's listed quite a few.</p> <p>22 And then on the next page, the next 23 paragraph, it says, "In addition, various 24 minerals, for example, soapstone," in 25 parentheses, "(talc) and gabbro diabase</p>

<p>1 contains small amounts of asbestos, such as 2 tremolite and actinolite. As a result, they 3 can pose asbestos risk through exposure to 4 mixed dust."</p> <p>5 Q. What's soapstone?</p> <p>6 A. I don't know. They say in 7 parentheses talc. That's all I can say. This 8 is what they state in the paper.</p> <p>9 Q. Do you know what soapstone is?</p> <p>10 A. I don't know what soapstone.</p> <p>11 Q. When you read this article, did you 12 follow up to determine what soapstone is?</p> <p>13 A. No. I noticed that it said talc.</p> <p>14 Q. Have you read a paper entitled, 15 "Talcum Powder Induces Malignant Transformation 16 in Normal Human Primary Ovarian Epithelial 17 Cells" by A. Harper?</p> <p>18 A. I'm not sure. I don't know if it's 19 on my reliance list. I don't know if it's in 20 my references. So I need to -- I need to look 21 that up.</p> <p>22 MS. DAVIDSON: Let's mark that 23 paper as Exhibit 7.</p> <p>24</p> <p>25</p>	<p>Page 78</p> <p>1 the proper view on your monitor or your screen 2 so that you can see what the rest of us are 3 seeing. What the rest of us are seeing is a 4 full page.</p> <p>5 Have you figured out how to get the 6 full page on your --</p> <p>7 A. I have -- I have it bigger. And 8 I've worked with many Zoom calls. I've never 9 seen a problem quite like this. And, you know, 10 we -- we only got the Zoom link right before 11 the call, so there wasn't time to test anything 12 out. But no, I could not read this as a --</p> <p>13 Q. You don't have a full --</p> <p>14 A. It looks full -- like a full page, 15 but I couldn't read it. The print is so small. 16 And somebody's making it bigger and smaller 17 right now so --</p> <p>18 Q. He's trying to be helpful.</p> <p>19 A. Okay.</p> <p>20 Q. Asher's trying to be helpful. 21 Do you see a full page in the 22 middle of your computer?</p> <p>23 When you say you were only seeing 24 black, that was my concern.</p> <p>25 A. All right. Right now I see about</p> <p>Page 80</p>
<p>1 (Whereupon, Exhibit No. 7, Article 2 entitled, "Talcum powder induces malignant 3 transformation in normal human primary 4 ovarian epithelial cells," by Amy K. 5 Harper, et al., was marked for 6 identification.)</p> <p>7 MS. O'DELL: And Asher, would you 8 please put that in the chat?</p> <p>9 MR. TRANGLE: Sure.</p> <p>10 MS. DAVIDSON: I think Asher knows 11 to do that with every document, so you 12 don't need to ask.</p> <p>13 BY MS. DAVIDSON:</p> <p>14 Q. Dr. McTiernan, does this document 15 look familiar to you?</p> <p>16 A. All I see is something on its side 17 and mostly black.</p> <p>18 Q. I think there's something wrong 19 with your screen because for the rest of us, we 20 have a full article in the middle -- a full 21 page in the middle of our screen.</p> <p>22 Can you try to change your view. 23 Perhaps you can figure out why that is that 24 you're not having -- I think for a Zoom 25 deposition, it's rather important that you have</p>	<p>Page 79</p> <p>1 three quarters of the page.</p> <p>2 Q. Okay.</p> <p>3 A. I see -- I see the title, and I see 4 down to, like, something that says EOC on the 5 right-hand column.</p> <p>6 Q. Does this look familiar to you?</p> <p>7 A. I can't see what year this was. 8 2023. I'm not sure. I would have to see if 9 it's in my reference list.</p> <p>10 Q. I will let you know, Dr. McTiernan, 11 it is not in your reference list. I'm asking 12 whether it looks familiar to you. That's all.</p> <p>13 A. I think I need to read it to say if 14 it's familiar or not.</p> <p>15 I know that Dr. Saed has done quite 16 a few papers and -- in this area. I just don't 17 know if I've seen this one before without 18 looking at it.</p> <p>19 Q. Dr. McTiernan, the problem, 20 obviously, we face is that if every question I 21 ask you about a paper requires you to read the 22 entire paper, this deposition will go on for a 23 month.</p> <p>24 So it would be ideal if there were 25 some way for us to shortcut that and not have</p> <p>Page 81</p>

<p>1 to go on every day for the next month in this 2 deposition.</p> <p>3 Are you unable to tell me if you've 4 seen this document before without reading the 5 entire article?</p> <p>6 MS. O'DELL: I would just say, just 7 object to the colloquy. I object to 8 badgering Dr. McTiernan. She's trying to 9 be helpful.</p> <p>10 As you've noted for the record, 11 Jessica, this is not on Dr. McTiernan's 12 reliance list. It has been put in the 13 chat.</p> <p>14 If Dr. McTiernan needs to see this 15 to determine if she's reviewed it before, 16 that's a perfectly reasonable request.</p> <p>17 And -- and so, you know, 18 Dr. McTiernan, if you need to do that in 19 order to answer the question about whether 20 you've seen it before, please do so. If 21 you don't and you don't recognize it, you 22 know, feel free to -- whatever your 23 knowledge is.</p> <p>24 But -- but if you need to see it, 25 it's in the chat; and you can download it</p>	<p>Page 82</p> <p>1 BY MS. DAVIDSON: 2 Q. Okay. Let's go off the record 3 while you review it, and let us know if you've 4 read it before.</p> <p>5 THE VIDEOGRAPHER: The time is 6 11:51 a.m. We're off the record. 7 (Whereupon, a break was taken.)</p> <p>8 THE VIDEOGRAPHER: The time is 9 12:05 p.m. We're back on the record.</p> <p>10 MS. DAVIDSON: I'd like to note for 11 the record that I asked Dr. McTiernan if 12 she was familiar with this article. 13 Dr. McTiernan said she needed to read it 14 in order to answer that question. It has 15 been 15 minutes off the record.</p> <p>16 BY MS. DAVIDSON: 17 Q. Dr. McTiernan, have you read this 18 article before? 19 A. I did print it off so that I could 20 look through it. And to my knowledge, I've not 21 read this before. 22 Q. Did it take you to 15 minutes to 23 determine that? 24 A. It takes a while to print it off 25 and to read it, yes.</p>
<p>1 and open it up.</p> <p>2 THE WITNESS: Okay. Yes. I'll 3 need to look at it in order to answer that 4 question.</p> <p>5 BY MS. DAVIDSON: 6 Q. So just to be clear, you're saying 7 that in order to let me know if you've ever 8 seen this document before, you need to read the 9 entire document?</p> <p>10 MS. O'DELL: That's not what she 11 said. She just needs to look at it.</p> <p>12 MS. DAVIDSON: Well, we're looking 13 at it.</p> <p>14 BY MS. DAVIDSON: 15 Q. So you're saying you need to read 16 it, correct?</p> <p>17 MS. O'DELL: It's --</p> <p>18 THE WITNESS: The print is very 19 small. I see Dr. Saed's the senior 20 author. I know that he has written -- and 21 data has written papers based on 22 experiments in this area. I just don't 23 know if this particular one is one that I 24 read before.</p>	<p>Page 83</p> <p>1 Q. Did the material covered in this 2 article have any familiarity to you? 3 A. I also took the time to look 4 through the -- my materials list that was on 5 this -- previous, not the new list. But it 6 looks like these -- some of these authors may 7 have presented something similarly in an 8 abstract form in the past. I don't remember 9 the exact year. But I didn't see this paper on 10 my reliance list either in the old version -- 11 the older section nor the new ones. 12 Q. Do you recall reviewing a poster 13 presentation on the same topic? 14 A. It looked like it was the same 15 topic, but poster to paper quite often you do 16 see changes because reviewers will go through a 17 paper when it's submitted to a journal and make 18 suggestions for clarifications or changes. So 19 the poster may not be the exact same 20 presentation as a paper. 21 Q. Are you relying on that poster for 22 your opinions in this case? 23 A. I don't recall what's on the 24 poster, so I cannot answer that question right 25 now.</p>

<p>1 MS. O'DELL: Just for the record, I  2 think Dr. McTiernan has -- her last  3 deposition covered the poster. It  4 certainly -- in abstract, whatever it was  5 at that point during her prior deposition  6 in August of 2021.</p> <p>7 MS. DAVIDSON: Thank you, Leigh.</p> <p>8 BY MS. DAVIDSON:</p> <p>9 Q. Will you be relying on this paper  10 in any way at trial?</p> <p>11 A. It's not on my reliance list, so  12 I -- I -- I don't know how to answer that  13 question.</p> <p>14 Q. Dr. McTiernan, do you have an  15 opinion as to whether there was sufficient  16 epidemiological literature in the 1970s to  17 support the conclusion that perineal talc use  18 can cause ovarian cancer?</p> <p>19 MS. O'DELL: Objection to the  20 question. I mean, she's been deposed at  21 length on all the epidemiologic literature  22 prior to 2021, and -- and that is just a  23 complete retread of -- of what's been  24 covered before.</p> <p>25 So I would object, and that's</p>	<p>1 available and here and ready to answer  2 your questions, but not --</p> <p>3 MS. DAVIDSON: This question has  4 never been asked. I am not going to move  5 on. This is a highly relevant question to  6 this litigation. I am not moving on.</p> <p>7 BY MS. DAVIDSON:</p> <p>8 Q. Dr. McTiernan, please answer the  9 question.</p> <p>10 MR. MITCHELL: As a quick notation,  11 timing of knowledge is important in an  12 MCPA suit in ways different than in a  13 products liability suit; and these  14 questions are not repetitious because they  15 relate to timing.</p> <p>16 MS. DAVIDSON: We also made very  17 clear in our agreement that we would make  18 best efforts -- it is impossible to talk  19 about epidemiology without -- at some  20 level -- at some level touching in some  21 manner on things that have been discussed  22 before.</p> <p>23 And I think you are being -- I  24 think you are trying to interfere in this  25 deposition in a manner that is not</p>
<p>1 really beyond the scope of what we've  2 agreed to for this deposition.</p> <p>3 BY MS. DAVIDSON:</p> <p>4 Q. Dr. McTiernan, please respond.</p> <p>5 A. Could you repeat the question,  6 please.</p> <p>7 Q. Sure.</p> <p>8 MS. DAVIDSON: Suzanne, please  9 repeat the question.</p> <p>10 (At which time the following was  11 read back:</p> <p>12 "Question: Dr. McTiernan, do you  13 have an opinion as to whether there was  14 sufficient epidemiological literature in  15 the 1970s to support the conclusion that  16 perineal talc use can cause ovarian  17 cancer?"</p> <p>18 MS. O'DELL: Object to the  19 question. This is treading old ground;  20 and -- and Jessica, I would just ask you  21 to move on.</p> <p>22 She has testified to all the  23 epidemiologic literature prior to 2021.  24 If -- if you want to ask her about  25 anything that's new since 2021, she's</p>	<p>1 appropriate, and I'd ask you to stop.</p> <p>2 MS. O'DELL: I think that is  3 inappropriate. There is nothing about  4 what I've said that is inappropriate or  5 unprofessional or lacked courtesy.</p> <p>6 And it was certainly -- my  7 objection was consistent with the prior  8 discussions prior to this deposition. And  9 the idea that -- that there could be a  10 complete retreading of all the  11 epidemiology for talc prior to 2021 is  12 directly contravenes the agreement between  13 the parties.</p> <p>14 And as what I understand -- Meade,  15 you can correct me if I'm wrong, but I do  16 not believe I'm wrong -- is what the judge  17 said, is that there's not going to be  18 retreading of old ground.</p> <p>19 And Dr. McTiernan has testified at  20 length to all of the epidemiologic  21 literature that was published prior to  22 2021, and a lot of questions that goes  23 through time periods, decade or year by  24 year is -- is inappropriate.</p> <p>25 I mean, it clearly contravenes the</p>

<p>1 agreement and what the judge says. 2 That's -- that's not being an 3 obstructionist. That's trying to keep 4 confined to the scope in terms of this 5 deposition.</p> <p>6 MR. MITCHELL: This is a quick 7 response.</p> <p>8 The judge hasn't ruled on it. We 9 did indicate to Patrick that we would 10 undertake our best efforts not to retread 11 old ground, but asking a question about 12 specific timing is not -- is not 13 retreading old ground. Those are kind of 14 questions that would not be asked in 15 products liability depositions but which 16 are very germane to an MCPA suit.</p> <p>17 MS. O'DELL: Well, with respect, 18 Meade, these have been -- this type of 19 question and the timing of different 20 studies has been very much a part of the 21 product liability litigation.</p> <p>22 And so I'm not making a comment 23 about whether it's pertinent for the 24 Mississippi AG case in a consumer products 25 case. But what I am saying is that she</p>	<p>Page 90</p> <p>1 I'm going to repeat the question. 2 BY MS. DAVIDSON: 3 Q. Dr. McTiernan, do you have an 4 opinion as to whether the there was sufficient 5 epidemiological literature in the 1970s to 6 support the conclusion that perineal talc use 7 can cause ovarian cancer?</p> <p>8 MS. O'DELL: Objection to the 9 question. It goes beyond the scope of 10 this deposition. I'll allow this 11 question; but if we go down a complete 12 retreading of epidemiologic literature 13 from prior decades, then we're just going 14 to need to talk to the judge so I can 15 understand what his ruling was, which I 16 understand was a ruling.</p> <p>17 He said on the record, I am not 18 going to -- I'm not going to allow you to 19 retread old ground. That's what I 20 understand. If I'm mistaken, we can get 21 him on the phone and let him clarify.</p> <p>22 Dr. McTiernan, if you understand 23 the question, you may answer this 24 question; but we're not going to go beyond 25 the scope of -- of what we had previously</p>
<p>1 has testified at length to all of the 2 epidemiologic studies.</p> <p>3 And so the purpose of this 4 deposition is to cover new material. I'm 5 sorry. I --</p> <p>6 MR. MITCHELL: No, no. I 7 appreciate your comments. It's not 8 that -- I don't think Jessica's intent is 9 to recover all of the epidemiologic 10 studies. She's asking a specific 11 questions about whether that revealed 12 causation as a specific date, which is a 13 timing question that are germane to the 14 MCPA suits.</p> <p>15 MS. O'DELL: I --</p> <p>16 MR. MITCHELL: If I said that 17 wrong, Jessica will correct me; but I 18 wanted to try to make clear that is the 19 nature of the question.</p> <p>20 MS. DAVIDSON: I am not asking 21 anything today that retreads prior ground. 22 To the best of my knowledge and ability, 23 I've been very careful about it.</p> <p>24 This is not retreading old ground. 25 I reviewed the prior testimony.</p>	<p>Page 91</p> <p>1 agreed to.</p> <p>2 THE WITNESS: The 1970s, I wasn't 3 yet an epidemiologist; so I didn't have 4 knowledge about the science of talcum 5 powder and ovarian cancer risk.</p> <p>6 I know from my report that the 7 dates of the studies that they were 8 published was the '80s, but those studies 9 would have started earlier. They would 10 have started sometime in the '70s.</p> <p>11 So those investigators must have 12 had a consideration of talcum powder 13 product, perineal product -- perineal 14 powder exposure -- perineal talc exposure, 15 excuse me, and ovarian cancer because 16 those were ovarian cancer studies that 17 were done in those early years.</p> <p>18 So they must have had some 19 knowledge at that time, but I can't 20 speculate of what the epidemiologic 21 knowledge was to answer that question.</p> <p>22 BY MS. DAVIDSON: 23 Q. And is the --</p> <p>24 MS. O'DELL: Excuse me just a 25 minute, Jessica. I'm sorry.</p>

<p>1       Would you mind asking Asher to take 2       down this document. 3       Thank you. 4 <b>BY MS. DAVIDSON:</b> 5       Q. Dr. McTiernan, is the -- is the 6       literature published from the 1970s, the 7       epidemiological literature that you've reviewed 8       from the 1970s, is that a sufficient body of 9       literature from which to reach a causal 10      inference? 11      MS. O'DELL: Objection to the 12      question. It goes beyond the scope of 13      this deposition. 14      THE WITNESS: As I mentioned per my 15      report, the dates of these studies began 16      in the '80s. The published -- the 17      published papers were in the '80s; 18      however, those studies would have started 19      in the '70s. 20      And when I did my causal analysis, 21      I look at all available research. I did 22      not stop at different decades and look and 23      see if that was evidence for cause and 24      effect. 25      I looked at the entirety of</p>	<p>1       to repeat it? 2       MS. DAVIDSON: Please. 3       (At which time the following was 4       read back: 5       "Question: Do you have an opinion 6       as an epidemiologist as to whether one 7       case-control study on talc and ovarian 8       cancer would be sufficient to reach a 9       causal inference?" 10      MS. DAVIDSON: Case-control, 11      Suzanne. 12      THE WITNESS: It -- it would depend 13      entirely on the study, and I can't 14      specifically say that one study is or is 15      not sufficient. 16      All I can say is this is -- my 17      analysis was all studies that had been 18      done up until the time when I did my 19      systematic reviews. 20 <b>BY MS. DAVIDSON:</b> 21      Q. Is a Bradford Hill analysis 22      appropriate if there's just one case-control 23      study in an entire body of literature? 24      MS. O'DELL: Objection. 25      Bradford Hill has been covered twice in</p>
<p>1       evidence up to the date when I was doing 2       my systematic review and my causal 3       analysis. 4       To my knowledge, it -- in my 5       perspective, it would not have been 6       appropriate for me to look at particular 7       time periods specifically to see what the 8       body of knowledge was at that period. I 9       didn't have any reason to do that. I 10      looked at the total body of knowledge at 11      the time I was doing the review. 12 <b>BY MS. DAVIDSON:</b> 13      Q. Do you have an opinion as an 14      epidemiologist as to whether one case-control 15      study on talc and ovarian cancer would be 16      sufficient to -- to reach a causal inference? 17      MS. O'DELL: Object to the form. 18      THE WITNESS: I'm sorry. Somebody 19      just said something. I didn't hear. 20      MS. O'DELL: Object to the form, 21      Doctor. Sorry. I couldn't -- I'll speak 22      up. 23      THE WITNESS: Okay. Could you 24      repeat the question? 25      THE COURT REPORTER: Do you want me</p>	<p>1       her depositions, and these methodologic 2       questions that have been previously 3       covered really are beyond anything that is 4       considered for this deposition. 5       And so I would instruct 6       Dr. McTiernan not to answer. These 7       general questions about Bradford Hill and 8       other things that she's already covered is 9       not new information, and it's 10      inappropriate. 11      MS. DAVIDSON: These are different 12      questions about Bradford Hill, as you 13      know, Leigh. We have not addressed these 14      questions. 15      The fact that I'm using the word 16      "Bradford Hill" cannot be an excuse to 17      instruct the witness not to answer. 18      MS. O'DELL: It is -- it's an 19      inappropriate question based on our 20      agreement. I'm instructing Dr. McTiernan 21      not to answer. 22      MS. DAVIDSON: Let's go off the 23      record. 24      THE VIDEOGRAPHER: The time is 25      12:19 p.m. We're off the record.</p>

<p>1 (Whereupon, a break was taken.)</p> <p>2 THE VIDEOGRAPHER: The time is</p> <p>3 12:28 p.m. We're back on the record.</p> <p>4 BY MS. DAVIDSON:</p> <p>5 Q. Dr. McTiernan, do you have an</p> <p>6 opinion as to whether the five case-control</p> <p>7 studies that were published in the 1980s were</p> <p>8 sufficient to support the conclusion that talc</p> <p>9 use perineally can cause ovarian cancer?</p> <p>10 MS. O'DELL: Objection to the</p> <p>11 question. It's the same type question I</p> <p>12 just objected to. It's just a new decade,</p> <p>13 and I'll instruct Dr. McTiernan not to</p> <p>14 answer. She's testified at length about</p> <p>15 the prior epidemiologic literature.</p> <p>16 BY MS. DAVIDSON:</p> <p>17 Q. Dr. McTiernan, was a dose response</p> <p>18 established for talc use and the development of</p> <p>19 ovarian cancer in the 1980s?</p> <p>20 MS. O'DELL: Same objection.</p> <p>21 Dr. McTiernan has testified previously</p> <p>22 about dose response at length, and</p> <p>23 instruct her not to answer consistent with</p> <p>24 the directive of the Court.</p> <p>25</p>	<p>Page 98</p> <p>1 epidemiological literature involving talcum</p> <p>2 powder and ovarian cancer in the 1980s?</p> <p>3 MS. O'DELL: I have the same</p> <p>4 objection as it relates to the prior</p> <p>5 examinations that Dr. -- prior testimony</p> <p>6 that Dr. McTiernan has given regarding</p> <p>7 consistency of the epidemiologic</p> <p>8 literature.</p> <p>9 And based on the Judge's</p> <p>10 instructions, I would instruct her not to</p> <p>11 answer.</p> <p>12 BY MS. DAVIDSON:</p> <p>13 Q. Dr. McTiernan, do you have an</p> <p>14 opinion as to whether the strength of</p> <p>15 association factor of Bradford Hill was</p> <p>16 established by the epidemiological literature</p> <p>17 on talc as it existed in the 1980s?</p> <p>18 MS. O'DELL: Same objection and</p> <p>19 same instruction to the doctor.</p> <p>20 BY MS. DAVIDSON:</p> <p>21 Q. Dr. McTiernan, do you have an</p> <p>22 opinion as to whether the experiment analogy</p> <p>23 and temporality factors of Bradford Hill were</p> <p>24 established with respect to the alleged</p> <p>25 association between perineal use of talcum</p>
<p>1 BY MS. DAVIDSON:</p> <p>2 Q. Dr. McTiernan, was biological</p> <p>3 plausibility of the alleged ta- -- talcum</p> <p>4 powder/ovarian cancer relationship established</p> <p>5 in the 1980s?</p> <p>6 MS. O'DELL: Same objection.</p> <p>7 Dr. McTiernan, the same</p> <p>8 instruction.</p> <p>9 BY MS. DAVIDSON:</p> <p>10 Q. Dr. McTiernan, are you familiar</p> <p>11 with any mechanistic literature in the 1980s</p> <p>12 addressing the biological plausibility of a</p> <p>13 relationship between perineal use of talcum</p> <p>14 powder and the development of ovarian cancer?</p> <p>15 MS. O'DELL: Dr. McTiernan has</p> <p>16 testified at length to biologic</p> <p>17 plausibility and mechanism in prior</p> <p>18 depositions, and that goes beyond the</p> <p>19 scope of what the Court has dictated for</p> <p>20 this deposition. And I would instruct her</p> <p>21 not to answer.</p> <p>22 BY MS. DAVIDSON:</p> <p>23 Q. Dr. McTiernan, do you have an</p> <p>24 opinion as to whether the consistency factor of</p> <p>25 Bradford Hill was established for the</p>	<p>Page 99</p> <p>1 powder and the development of ovarian cancer</p> <p>2 during the 1980s?</p> <p>3 MS. O'DELL: Dr. McTiernan has</p> <p>4 testified at length to the experiment</p> <p>5 consideration as part of the Bradford Hill</p> <p>6 analysis both in deposition and at trial;</p> <p>7 and because that question goes beyond the</p> <p>8 scope of what the agreement was and the</p> <p>9 Court's direction was regarding this</p> <p>10 deposition, I would instruct her not to</p> <p>11 answer.</p> <p>12 BY MS. DAVIDSON:</p> <p>13 Q. Dr. McTiernan, prior to the</p> <p>14 publication of the first meta-analysis</p> <p>15 addressing the proposed association between</p> <p>16 talcum powder and the development of ovarian</p> <p>17 cancer, do you believe that there was a</p> <p>18 sufficient scientific basis to conclude that</p> <p>19 perineal talcum powder use can cause ovarian</p> <p>20 cancer?</p> <p>21 MS. O'DELL: Back to the question.</p> <p>22 Dr. McTiernan has testified at length to</p> <p>23 the meta-analyses that have been published</p> <p>24 in relation to the genital use of talcum</p> <p>25 powder and ovarian cancer both during</p>

<p>1 deposition and at trial.  2 She's opined to those in her -- in  3 her various reports. And because that's  4 beyond the scope of the Court's direction  5 and the parties' agreement, I would  6 instruct her not to answer.</p> <p>7 BY MS. DAVIDSON:</p> <p>8 Q. Dr. McTiernan, do you have an  9 opinion as to whether the published  10 epidemiological literature regarding the  11 relationship between perineal talc use and the  12 development of ovarian cancer was sufficient to  13 determine a causal -- whether there was a  14 causal relationship prior to the publication of  15 any cohort studies?</p> <p>16 MS. O'DELL: Same objection.  17 Dr. McTiernan has testified at trial and  18 at deposition. She's opined in her  19 reports regarding the cohort studies, and  20 that ground has been covered at length  21 both on direct examination and  22 cross-examination.</p> <p>23 And because that question's beyond  24 the scope of the Court's directive and the  25 parties' agreement, I would instruct</p>	<p>1 because I -- this appears to be an issue  2 that we'll have to raise with the Court,  3 can we just get you to state on the record  4 that you will give the doctor the same  5 objection and instruct her not to answer  6 for the same questions for the 1990s and  7 the 2000s, Leigh?</p> <p>8 MS. O'DELL: Yes. I will -- I  9 would say that to the degree that they're  10 questions that go to evidence that  11 Dr. McTiernan has testified to at length  12 both at trial and deposition, and she's  13 given opinions in her various reports, I  14 will object to those questions as beyond  15 the scope of this deposition and instruct  16 Dr. McTiernan not to answer.</p> <p>17 Again, Dr. McTiernan is prepared  18 and here to answer questions about new  19 material since her last deposition in the  20 fall of 2021. If there are any questions  21 about those materials, then please ask  22 them. We are prepared to answer those  23 questions. The other --</p> <p>24 MR. MITCHELL: I appreciate that.  25 MS. O'DELL: The other -- the</p>
<p>1 Dr. McTiernan not to answer.</p> <p>2 BY MS. DAVIDSON:</p> <p>3 Q. Dr. McTiernan, do you recall  4 whether there were any meta-analyses published  5 in the 1980s with respect to the potential  6 relationship between perineal talc use and the  7 risk of ovarian cancer?</p> <p>8 MS. O'DELL: Dr. McTiernan --  9 again, I object to the question.</p> <p>10 Dr. McTiernan has testified at length in  11 her trial testimony, her deposition  12 testimony. She's outlined in her prior  13 reports the dates of all meta-analysis,  14 including the first one. And that clearly  15 is beyond the scope of what the parties  16 agreed to and the Court's directive.</p> <p>17 So I'd instruct her not to answer.</p> <p>18 MS. DAVIDSON: Meade.</p> <p>19 MR. MITCHELL: Yes. Leigh, Jessica  20 will -- if we keep doing this, she'll end  21 up asking the same questions that she's  22 just asked about the 1980s for the 1990s  23 and the 2000s, correct, Jessica?</p> <p>24 MS. DAVIDSON: That is correct.</p> <p>25 MR. MITCHELL: To save time,</p>	<p>1 other -- just excuse me, Meade, I'm sorry.  2 Sometimes I pause.</p> <p>3 MR. MITCHELL: That's my fault.</p> <p>4 MS. O'DELL: But to the degree  5 that -- that the questions go to the  6 substance of the materials that she has  7 been examined on extensively, we believe  8 that's objectionable; and that's the basis  9 of my instruction.</p> <p>10 MS. DAVIDSON: And I would like to  11 make clear that that was not the agreement  12 that we entered into. That Dr. McTiernan  13 is here offering epidemiological opinions  14 in this case.</p> <p>15 And while we are not asking  16 questions that were asked before, there  17 are topics relevant to this case that do  18 overlap in some way with opinions that  19 Dr. McTiernan has previously written in  20 her reports that are not retreading new  21 ground [sic].</p> <p>22 And the idea that asking any  23 question prior to 2021 is somehow  24 retreading new ground -- is retreading old  25 ground is not anything that we ever agreed</p>

<p>1 to or would have agreed to.  2 But Meade, if I said something  3 wrong, please correct me.  4 MR. MITCHELL: No, you didn't say.  5 We have a disagreement about whether we're  6 retreading old ground. We think we we're  7 not and think these relate to timing,  8 which is very germane here and would not  9 have been in the other cases. Plaintiff's  10 counsel disagrees.  11 I'm just trying to get a  12 stipulation that -- that we don't have to  13 just continue to ask questions about the  14 '90s and 2000s for the next hour so that  15 we can move on to the next issue and then  16 take this up with the Court.  17 MS. O'DELL: We -- we -- we do have  18 a disagreement. I will stipulate that I  19 will continue to give that instruction,  20 and, you know, we'll look to the Court for  21 guidance on this issue.  22 MR. MITCHELL: Okay. Thank you.  23 MS. O'DELL: Thank you.  24 BY MS. DAVIDSON:  25 Q. Dr. McTiernan, are you aware that</p>	<p>Page 106</p> <p>1 But if you know the answer to the  2 question, Doctor, you may answer.  3 THE WITNESS: Without looking at  4 the current document of what IARC is  5 classifying hot beverages as, I can't  6 answer that.  7 BY MS. DAVIDSON:  8 Q. Do you have a recollection as to  9 whether IARC ever classified hot beverages as  10 Category 2A?  11 A. I -- I don't recall what hot  12 beverages has been classified as.  13 Q. Do you recall IARC ever classifying  14 hot beverages as probably carcinogenic?  15 MS. O'DELL: Objection. Asked and  16 answered.  17 You may answer.  18 THE WITNESS: I don't recall what  19 IARC has classified hot beverages -- how  20 it has classified hot beverages in their  21 classification scheme.  22 BY MS. DAVIDSON:  23 Q. Do you believe that the state of  24 Mississippi should obtain billions of dollars  25 of penalties from every manufacturer of a</p> <p>Page 108</p>
<p>1 the state is asking defendants -- is -- is  2 seeking up to \$10,000 in penalties for each  3 bottle of Johnson's Baby Powder sold in the  4 state of Mississippi?  5 MS. O'DELL: Object to form.  6 You may answer, Doctor, if you --  7 if you understood the question.  8 THE WITNESS: I don't know the  9 specifics offhand. I've read through the  10 Complaint and the Amended Complaint, but I  11 don't recall if it mentions anything about  12 specific amount of money per bottle.  13 BY MS. DAVIDSON:  14 Q. Are you aware that IARC classifies  15 hot beverages in the same category as talc?  16 MS. O'DELL: Objection to the form.  17 I am confident that Dr. McTiernan  18 has been asked that question previously  19 almost exactly. That's the same  20 objection.  21 Dr. McTiernan, just to move this  22 along, if you know, answer the question.  23 But again, I'm going to assert the  24 same objection if you're going to go down  25 this same road.</p>	<p>Page 107</p> <p>1 product that is listed by IARC as potentially  2 or probably carcinogenic?  3 MS. O'DELL: Objection to the  4 question. Dr. McTiernan is not being  5 offered as an damages expert in this case,  6 and that's a completely inappropriate  7 question. And I instruct the witness not  8 to answer.  9 BY MS. DAVIDSON:  10 Q. Dr. McTiernan, did you have any  11 discussions with Mississippi officials before  12 this lawsuit was filed?  13 A. No, I did not.  14 Q. Have you provided Mississippi with  15 any advice regarding this litigation?  16 A. No, I have not.  17 Q. Have you talked to any public  18 health officials in Mississippi about your  19 opinions regarding talc and ovarian cancer?  20 A. No, I have not.  21 Q. Have you advised the State of  22 Mississippi to run public service announcements  23 about talc use?  24 A. No, I have not.  25 Q. Have you advised the State of</p> <p>Page 109</p>

<p style="text-align: right;">Page 110</p> <p>1 Mississippi to tell its citizens to throw away 2 the leftover talc they have? 3 A. No, I have not. 4 Q. Have you suggested to the State of 5 Mississippi that it screen people who have -- 6 women who've been exposed to talc that they get 7 extra screening for ovarian cancer? 8 A. No, I have not. 9 Q. Have you advised any public health 10 officials or any hospitals that women who have 11 previously been exposed to talc should obtain 12 additional ovarian cancer screening? 13 MS. O'DELL: I'm sorry. I missed a 14 word there, Jessica. 15 Would you mind repeating the 16 question, or can I have Suzanne read it 17 back? 18 MS. DAVIDSON: I can -- I can 19 rephrase it. 20 BY MS. DAVIDSON: 21 Q. Have you ever advised any public 22 health official, any hospital that women who 23 have previously been exposed to talc should 24 obtain additional screening for ovarian cancer? 25 MS. O'DELL: Are you limiting your</p>	<p style="text-align: right;">Page 112</p> <p>1 There were -- when I talked to 2 Congress, there were patients survivors at 3 that. And so -- and some of the cases, there 4 were patients there. But I can't state for 5 most of them what state they were from. 6 Q. Do you recall ever providing any 7 advice to any women from Mississippi about talc 8 or ovarian cancer? 9 MS. O'DELL: Objection to form. 10 Asked and answered. 11 THE WITNESS: Are you talking about 12 speaking directly to a patient or giving 13 some public opinion that anybody could 14 read? 15 BY MS. DAVIDSON: 16 Q. I'm talking about speaking directly 17 to any women from Mississippi that you recall 18 giving advice to with respect to either talc or 19 ovarian cancer. 20 MS. O'DELL: Object to the form. 21 Asked and answered. 22 THE WITNESS: And, again, if I was 23 speaking on ovarian cancer, I don't know 24 if there were women from Mississippi in 25 the audience. I can't -- I can't answer</p>
<p style="text-align: right;">Page 111</p> <p>1 question to time or to geographical area, 2 like your other questions were about 3 Mississippi just so I can understand? 4 MS. DAVIDSON: I am not. 5 THE WITNESS: No, I've not. 6 BY MS. DAVIDSON: 7 Q. Have you ever been to Mississippi? 8 A. I can't recall. 9 Q. Do you know whether any Mississippi 10 state-run facilities have ever provided talc? 11 A. I don't know. 12 Q. Do you know if talc was ever 13 provided to prisoners or hospital patients in 14 Mississippi? 15 A. I don't know. 16 Q. Have you spoken to any women from 17 Mississippi about talc or ovarian cancer? 18 A. I'm not sure if I have or not. 19 I've talked to patients. I don't know exactly 20 what state they've been from. 21 Q. When you say you've talked to 22 patients, what are you referring to? 23 A. Patients with ovarian cancer. So 24 if I've given talks in the past, there could 25 have been patient survivors there.</p>	<p style="text-align: right;">Page 113</p> <p>1 that. 2 BY MS. DAVIDSON: 3 Q. Do you know how many ovarian cancer 4 cases there are in Mississippi every year? 5 A. I don't have the specific statistic 6 in any head. I think it was in the Complaint, 7 but I don't recall. 8 Q. Do you have an opinion as to how 9 many ovarian cancer cases in Mississippi in the 10 1970s were the result of talc use? 11 MS. O'DELL: Objection to the form. 12 THE WITNESS: I don't have a -- I 13 don't have -- I have not looked at any 14 literature that would give information on 15 that. I do not have an answer for that. 16 BY MS. DAVIDSON: 17 Q. Do you have an opinion as to how 18 many ovarian cancer cases in Mississippi in the 19 1980s you believe are attributable to talcum 20 powder use? 21 MS. O'DELL: Object to the form. 22 THE WITNESS: I've -- I have not 23 seen any particular studies on this. I 24 have not looked at it myself, so I 25 couldn't answer that.</p>

<p>Page 114</p> <p>1 BY MS. DAVIDSON:</p> <p>2 Q. Is -- would that be your answer as 3 well for the 1990s and the 2000s?</p> <p>4 A. Yes.</p> <p>5 Q. Do you have an opinion as to the 6 percentage of ovarian cancer cases in 7 Mississippi in the 1970s that were the result 8 of talcum powder use?</p> <p>9 MS. O'DELL: Objection to form. I 10 think that was just the question you asked 11 about '70s.</p> <p>12 MS. DAVIDSON: Nope. Different 13 question. Thanks.</p> <p>14 MS. O'DELL: Object to the form. I 15 think it's the same question.</p> <p>16 MS. DAVIDSON: It was not.</p> <p>17 MS. O'DELL: Would you mind 18 repeating the question, please, Suzanne. 19 Thank you.</p> <p>20 (At which time the following was 21 read back:</p> <p>22 "Question: Do you have an opinion 23 as to the percentage of ovarian cancer 24 cases in Mississippi in the 1970s that 25 were the result of talcum powder use?"</p>	<p>Page 116</p> <p>1 BY MS. DAVIDSON:</p> <p>2 Q. Are your opinions in this case 3 limited to any specific ovarian cancer 4 subtypes?</p> <p>5 A. My opinions relate to epithelial 6 ovarian cancer.</p> <p>7 Q. Do you have an opinion as to 8 what -- as to the date on which there was 9 sufficient evidence in the epidemiological 10 literature to reach a causal inference that 11 exposure to talcum powder causes ovarian 12 cancer?</p> <p>13 MS. O'DELL: Objection to the 14 question. It again covers territory that 15 we've agreed we're going to take up with 16 the Judge. It's prior epidemiologic -- 17 based on it's -- it seeks information and 18 testimony about epidemiologic studies and 19 Dr. McTiernan's Bradford Hill analysis 20 that she's previously testified to.</p> <p>21 BY MS. DAVIDSON:</p> <p>22 Q. Will you -- will you be relying on 23 any nonstatistically significant findings in 24 talc studies for this case?</p> <p>25 MS. O'DELL: Same -- same</p>
<p>Page 115</p> <p>1 MS. O'DELL: Object to form.</p> <p>2 THE WITNESS: I don't have any 3 knowledge of that. It would depend on 4 information about prevalence of use in 5 that state, and it would depend on 6 estimates of risk. So I cannot answer 7 that question.</p> <p>8 BY MS. DAVIDSON:</p> <p>9 Q. Have you done any research on the 10 prevalence of perineal talcum powder use in 11 Mississippi?</p> <p>12 A. No, I have not.</p> <p>13 Q. Do you have an opinion on the 14 percentage of ovarian cancer cases that you 15 believe are attributable to talcum powder use 16 in Mississippi in the 1980s, the 1990s, or the 17 2000s?</p> <p>18 MS. O'DELL: Object to the form.</p> <p>19 THE WITNESS: No, I don't.</p> <p>20 BY MS. DAVIDSON:</p> <p>21 Q. Have you done any investigation as 22 to patterns of talcum powder use in 23 Mississippi?</p> <p>24 MS. O'DELL: Asked and answered.</p> <p>25 THE WITNESS: No, I have not.</p>	<p>Page 117</p> <p>1 objection. Dr. McTiernan has testified at 2 length about all of the studies, including 3 which ones were statistically significant 4 and which ones were not.</p> <p>5 And I would assert the same 6 objection I made earlier about that can 7 beyond the scope of this deposition.</p> <p>8 MS. DAVIDSON: So just to be clear, 9 are you --</p> <p>10 MS. O'DELL: I'm sorry. Forgive 11 me. I wasn't finished, Jessica. I'm 12 sorry because I talk so slow.</p> <p>13 I'm going to instruct Dr. McTiernan 14 not to answer that question.</p> <p>15 MS. DAVIDSON: So just to be clear, 16 are you instructing Dr. McTiernan not to 17 let me know whether she's relying on 18 nonstatistically significant findings in 19 the Mississippi case?</p> <p>20 MS. O'DELL: Yes, for this reason. 21 Dr. McTiernan has testified regarding the 22 epidemiologic studies published prior to 23 2021 at length, both that were 24 statistically significant and those that 25 were not.</p>

<p>1        And she has relied on those in  2        rendering her opinion that talc can cause  3        ovarian cancer. That has been  4        well-established, as well as the  5        literature about the significance or  6        insignificance of statistical  7        significance.</p> <p>8        And so your question really does go  9        back to the heart of what she's testified  10       to before, and I'm going to instruct her  11       not to answer.</p> <p>12 BY MS. DAVIDSON:</p> <p>13 Q. Dr. McTiernan, have any of your  14 opinions on statistical significance changed  15 since your prior deposition in this matter in  16 the talc litigation?</p> <p>17 A. Can you explain that more?</p> <p>18 Q. I -- have any of your opinions  19 related to statistical significance changed  20 since you were last deposed in talc litigation?</p> <p>21 A. I've always been clear that  22 statistical testing is one way to get an es- --  23 an overview of what the -- the use -- the --  24 sorry.</p> <p>25        Statistical testing gives us a</p>	<p>Page 118</p> <p>1        that testing with these statistical measures  2        are another way to give us some information  3        about how to interpret a relative risk or how a  4        relative risk might perform if it was done in  5        another study.</p> <p>6        When I look at studies overall, so  7        do a causal analysis, I look at all studies.  8        And I don't throw out -- I don't discard  9        studies that don't fall within a particular  10       level of statistical significance or  11       statistical nonsignificance. I look at them  12 all.</p> <p>13        We can see that when an effort is  14 made to make the studies larger, either by  15 design or by pulling data from different  16 studies or doing meta-analysis from different  17 studies, very often the results of that effort  18 is -- will result in a statistically  19 significant result because the study is larger.</p> <p>20        So my opinion remains that while  21 statistical testing is useful, it's -- it's a  22 particular part of what I use to evaluate  23 studies.</p> <p>24 MS. DAVIDSON: Asher, can you put  25 up Tab 13 as Exhibit 8.</p>
<p>Page 119</p> <p>1        picture of how precise a relative risk is. So  2        scientists look at a couple of different ways  3        to look at how likely something would occur if  4        you retested again and again in the same  5        population.</p> <p>6        One of those is a confidence  7        interval, usually a 95-percent confidence  8        interval around that relative risk or whatever  9        measure you're looking at. Another is a P  10       value that's often used. And these -- these  11       are helpful.</p> <p>12        They're statistical significance  13 and confidence intervals are highly related to  14 sample size, the number of cases in a study,  15 even more than the number of non-cases.</p> <p>16        And so if you have a small study,  17 like a cohort study that doesn't have many  18 cases, or -- or a case-control study that is  19 small, you may have results that are -- would  20 be classified as not statistically significant,  21 assuming you use certain criteria for  22 statistical significance. And whereas, if you  23 have a larger study, it would show up as  24 statistically significant.</p> <p>25        And so my opinion has always been</p>	<p>Page 121</p> <p>1        I'm marking as Exhibit 8 "Genital  2        Pattern Exposure and the Risk of  3        Epithelial Ovarian Cancer" by Karin  4        Rosenblatt.  5        (Whereupon, Exhibit No. 8,  6        Publication entitled, "Genital powder  7        exposure and the risk of epithelial  8        ovarian cancer," by Karin A. Rosenblatt,  9        et al., was marked for identification.)</p> <p>10 BY MS. DAVIDSON:</p> <p>11 Q. This article is dated from 2011.  12        Do you see that in the top  13 left-hand corner?</p> <p>14 A. Yes.</p> <p>15 MS. DAVIDSON: If we could blow up  16 the abstract, Asher.</p> <p>17 MS. O'DELL: Jessica, Dr. McTiernan  18 has --</p> <p>19 MS. DAVIDSON: Will you let me ask  20 my question before you lodge your  21 objection. You don't know what my  22 question is.</p> <p>23 MS. O'DELL: That -- that's a  24 fair -- that's a fair comment.</p> <p>25 Dr. McTiernan, just give me a</p>

<p>1 moment after the question in case I have 2 to lodge -- lodge an objection. Thank 3 you.</p> <p>4 BY MS. DAVIDSON:</p> <p>5 Q. Dr. McTiernan, in abstracts of this 6 paper written in 2011, the authors state, "A 7 modest association of ovarian cancer with this 8 exposure was seen in our study and in some 9 previous ones, but that association generally 10 has not been consistent within or among 11 studies."</p> <p>12 The authors go on to state, 13 "Therefore, no stronger adjective than possible 14 appears warranted at this time."</p> <p>15 Do you agree with these authors 16 that as of 2011, the -- the strongest adjective 17 that could be applied to the potential 18 relationship between talcum powder exposure and 19 ovarian cancer at that time was, quote, 20 "possible"?</p> <p>21 MS. O'DELL: This -- this study, 22 the Rosenblatt study, published in 2011 is 23 something that has been a part of 24 Dr. McTiernan's reports both in 2018 and 25 2021. She's testified regarding the data</p>	<p>1 agreement. 2 Meade, do you have anything to add? 3 MR. MITCHELL: No. I think that's 4 accurate. 5 MS. O'DELL: Obviously, we 6 disagree. We talked about it at length on 7 the record, and we'll seek the Court's -- 8 Court's guidance. 9 But to somehow pick out an 10 epidemiologic study in this way that she's 11 previously testified to we think is beyond 12 the scope and inappropriate, and we -- we 13 state our objection. 14 BY MS. DAVIDSON: 15 Q. Dr. McTiernan, we talked briefly 16 about -- 17 MS. O'DELL: I'm sorry. I'm sorry. 18 What exhibit is -- is that 9 or 8? 19 MS. DAVIDSON: I have it as 8. 20 MS. O'DELL: Okay. Thank you. 21 MS. DAVIDSON: I have Harper as 7 22 and that as 8. 23 Did I miss one? 24 MS. O'DELL: I think I miscounted, 25 so thank you.</p>
<p>1 at trial and at deposition. 2 And for the reasons stated earlier, 3 the scope of what we believe this 4 deposition was agreed to be as well as 5 what the Court's directive is, I would 6 instruct Dr. McTiernan not to answer. 7 MS. DAVIDSON: And I will add -- 8 and, Meade, please join if there's 9 anything you would like to add to that -- 10 that the timing of knowledge and what was 11 known is highly relevant to this 12 litigation. 13 What was known when in the 14 epidemiological community, Dr. McTiernan 15 as the expert epidemiologist, this is 16 completely fair game to be -- to be 17 probing her about in this litigation. 18 It's highly relevant, and this has not 19 been a topic that has been probed in prior 20 depositions. 21 The idea that because she was asked 22 one question about Rosenblatt, she can 23 never been asked a question about 24 Rosenblatt again is certainly not what we 25 agreed to and not our understanding of any</p>	<p>1 Page 123 2 MS. DAVIDSON: Okay. 3 BY MS. DAVIDSON: 4 Q. Dr. McTiernan, we talked briefly 5 about your role as an expert in the Zantac 6 litigation. 7 Do you remember that? 8 A. Do I remember Zantac, or do I 9 remember that we talked about it? 10 Q. How did you come to be retained by 11 plaintiffs as an expert in the Zantac 12 litigation? 13 A. I was con- -- contacted by a lawyer 14 that was part -- I believe part of the MDL and 15 asked me if I would be interested. 16 Q. And who was that lawyer? 17 A. John Restaino [sic]. 18 Q. Did you work with any lawyers in 19 the Zantac litigation with whom you had also 20 worked in the talc litigation? 21 A. Other than him and -- I didn't 22 really work with him. He just made the first 23 contact. 24 But no, I don't believe there was 25 any overlap for my work. I don't -- I don't think that I worked with anybody that was in</p>

<p>1 both litigations.</p> <p>2 Q. Are you aware that the MDL board 3 excluded your causation opinions on 4 December 6th, 19 -- 2022?</p> <p>5 A. Yes.</p> <p>6 Q. Have you read her opinion?</p> <p>7 A. I read parts of it. I've not read 8 everything.</p> <p>9 Q. Do you recall what her reasons were 10 for excluding your opinions?</p> <p>11 A. I don't recall everything. I 12 recall a few things.</p> <p>13 Q. What do you recall?</p> <p>14 A. I couldn't list them now. If you 15 have a particular question, I'm happy to try to 16 answer it.</p> <p>17 Q. You said you recall two things.</p> <p>18 What were you referring to?</p> <p>19 A. No, no. I said a few things.</p> <p>20 I just -- I just know that from my 21 work on Zantac, I approached it the same way 22 that I did for talc and the same I do for other 23 systematic reviews, which is other systematic 24 reviews, such as what I did for the U.S. 25 government, the Department of Health and Human</p>	<p>Page 126</p> <p>1 Q. This deposition is going to go very 2 long for many, many days if you're not able to 3 answer the questions that I'm asking.</p> <p>4 So for everybody's sake, let's try 5 to stick to the questions I'm asking.</p> <p>6 And my question was: You had said 7 that you remembered a few things from her 8 ruling, and I wanted to know what those few 9 things were.</p> <p>10 MS. O'DELL: I object to the 11 question. I object to the instruction to 12 Dr. McTiernan prior to the question.</p> <p>13 Dr. McTiernan, if you need the 14 question be repeated, you can certainly 15 ask the court reporter to do that.</p> <p>16 And so if you remember the 17 question, you can -- you can go ahead and 18 answer.</p> <p>19 THE WITNESS: I think the question, 20 if I'm correct, the question was what few 21 things do I recall.</p> <p>22 But it's a general thing. It was 23 several hundred pages long, the Court 24 report; and so I can't list things off. I 25 wouldn't be able to do it accurately</p>
<p>Page 127</p> <p>1 Services Physical Activity Guidelines Advisory 2 Committee where we looked at physical activity 3 and health outcomes.</p> <p>4 And the same as what we -- what I 5 did when I worked with the World Cancer 6 Research Fund looking at diet, physical 7 activity, obesity, and cancer risk and 8 survival.</p> <p>9 So used the same methodology for my 10 work on Zantac and did my causal analyses using 11 the same tools that, as an epidemiologist, I 12 would do for other efforts in the same way.</p> <p>13 Q. Dr. McTiernan, what did I ask you?</p> <p>14 A. Can you repeat the question?</p> <p>15 Q. What do you recall me asking you?</p> <p>16 A. I think I need you to ask -- as the 17 question. I don't know specifically. It was 18 something about the Zantac dismissal.</p> <p>19 Q. Did you forget what question I 20 asked?</p> <p>21 A. Could you repeat it, please?</p> <p>22 Q. You said that you remembered a few 23 things from the ruling, and I asked you what 24 were those few things.</p> <p>25 A. And they -- those are --</p>	<p>Page 129</p> <p>1 without looking at that report again.</p> <p>2 And so when I say I remembered a 3 few things, maybe I remembered some gist 4 of things; but I could be wrong about what 5 I remember. So I wouldn't be able to give 6 an accurate answer without looking again 7 at the report.</p> <p>8 BY MS. DAVIDSON:</p> <p>9 Q. When you said "a few things," what 10 were you referring to?</p> <p>11 A. I can't recall.</p> <p>12 Q. When you said two minutes ago "a 13 few things," you can't recall what you had in 14 mind?</p> <p>15 A. No.</p> <p>16 MS. O'DELL: Asher, would you mind 17 taking down the document on the screen, 18 please. Thank you.</p> <p>19 BY MS. DAVIDSON:</p> <p>20 Q. Do you recall whether the Zantac 21 Court addressed your opinions on statistical 22 significance?</p> <p>23 A. It sounds familiar, but I can't 24 recall exactly what they said.</p> <p>25 Q. Do you recall whether the Zantac</p>

<p>1 Court expressed concern about, quote, 2 "commingling data"?</p> <p>3 MS. O'DELL: And I'll just say, 4 Jessica, if you want to ask Dr. McTiernan 5 specific questions about the Zantac order, 6 we'll just ask you to mark it as an 7 exhibit for the record and allow her to 8 have it in front of her.</p> <p>9 MS. DAVIDSON: Understood. I just 10 want to know if she recalls anything about 11 it.</p> <p>12 MS. O'DELL: I don't think she's 13 required to answer that question unless 14 you put it in front of her.</p> <p>15 MS. DAVIDSON: Are you instructing 16 her not to answer?</p> <p>17 MS. O'DELL: I'm just asking you to 18 be courteous to the witness. And if 19 you're going to ask her something about a 20 200-page document about a number of 21 documents, just to put the document in 22 front of her.</p> <p>23 MS. DAVIDSON: Understood.</p> <p>24 MS. O'DELL: That's a -- that's a 25 perfectly appropriate request.</p>	<p>Page 130</p> <p>1 Q. Are you a full-time employee? 2 A. No. 3 Q. Well, you're a part-time employee? 4 A. Yes. 5 Q. What percentage employee are you? 6 A. Starting this month, 30 percent 7 approximately. I'm an hourly employee, so 8 that's why I said approximately. 9 Q. So how much are you paid per hour? 10 A. \$150. 11 Q. And what -- is your title changing 12 as you go to 30 percent? 13 A. No. I'm called professor in the 14 program in epidemiology in the Department of 15 Public Health Sciences -- sorry, Division of 16 Public Health Sciences. 17 Q. And what -- what are you doing for 18 those 30 hours? 19 Is that 30 hours -- wait, 20 30 percent. Sorry. 21 A. 30 percent. 22 Q. What are you doing for -- so 23 30 percent, would that be 30 percent of 24 40 hours a week? 25 A. Yes, approximately, yes. I have --</p>
<p>Page 131</p> <p>1 BY MS. DAVIDSON: 2 Q. Dr. McTiernan, do you recall 3 whether the Zantac Court criticized you for, 4 quote, "commingling data"?</p> <p>5 MS. O'DELL: Object to form.</p> <p>6 THE WITNESS: I don't recall, and I 7 don't even know what it means. Just 8 you're using that phrase. I don't know 9 what it was referring to.</p> <p>10 It could have been referring to 11 anything. So it's -- I'm not able to 12 answer that question.</p> <p>13 BY MS. DAVIDSON: 14 Q. Do you recall whether the Zantac 15 Court said that you had engaged in, quote, 16 "cherry-picking"?</p> <p>17 MS. O'DELL: Object to form.</p> <p>18 THE WITNESS: The term sounds 19 familiar. I think that defendants used 20 that term a lot. I don't recall seeing it 21 in the Court's report.</p> <p>22 BY MS. DAVIDSON: 23 Q. Are you still employed by the Fred 24 Hutchinson Cancer Research Center? 25 A. Yes.</p>	<p>Page 133</p> <p>1 I'm principal investigator of a clinical trial 2 that's funded through the breast cancer 3 research foundation. 4 Q. Uh-huh. 5 A. And as principal investigator, I 6 have to oversee all of it. 7 I continue to write papers. I do 8 review of journal reviews, grant reviews, give 9 talks. I'm approximately 5 percent on NIH 10 grant funded through the Diabetes Institute 11 where I provide medical oversight to a trial 12 and I collaborate on that trial. 13 So I do the similar things that I 14 did at a hundred percent just at scaled back. 15 Q. Are you teaching any classes? 16 A. Am I teaching classes? No, I'm 17 not. 18 Q. When is the last time you taught a 19 course? 20 A. I don't think I taught courses. 21 I -- I taught individuals, or I would mentor 22 individuals. I would have students working on 23 Ph.D.'s or master's degrees that come from the 24 university, and they would work with me. So 25 it's individual one-on-one teaching, and</p>

<p>1 occasionally I gave lectures at the university.  2 Q. Got it. I didn't realize that.  3 So you've never taught an  4 epidemiological course at the university?  5 A. That's right.  6 Q. Have you had any conversations with  7 anyone at Fred Hutchinson Cancer Research  8 Center since 2021 about the alleged  9 relationship between talc and ovarian cancer?  10 MS. O'DELL: Object to form.  11 You may answer.  12 THE WITNESS: No.  13 BY MS. DAVIDSON:  14 Q. Since 2021, has Fred Hutchinson  15 Institute taken a position on whether talc use  16 can cause ovarian cancer?  17 A. I don't know if they have. I know  18 that some of our investigators have been first  19 or senior or coinvestigators on several ovarian  20 cancer papers.  21 Q. Since 2021, have you gone to anyone  22 at Fred Hutch and said we should put on the  23 Fred Hutch website language letting people know  24 that talc may cause ovarian cancer?  25 A. I don't recall. There have been</p>	<p>Page 134</p> <p>1 Q. Have you looked at the ACOG website  2 since 2021?  3 MS. O'DELL: Object to form.  4 THE WITNESS: I don't recall.  5 There's probably several sites on the ACOG  6 website, so I don't recall.  7 BY MS. DAVIDSON:  8 Q. Are you aware that ACOG updated its  9 frequently asked questions on ovarian cancer in  10 May 2022?  11 A. I have not looked at that site, no.  12 MS. DAVIDSON: All right. Let's  13 mark that as Exhibit 9, I believe  14 Exhibit 9.  15 (Whereupon, Exhibit No. 9, The  16 American College of Obstetrics and  17 Gynecologists FAQs on Ovarian Cancer, was  18 marked for identification.)  19 MS. DAVIDSON: I am marking as  20 Exhibit 9 the website on the ACOG website  21 that lists risk factors and symptoms of  22 ovarian cancer.  23 BY MS. DAVIDSON:  24 Q. Do you see that on your screen?  25 A. I don't see where it says that it's</p>
<p>Page 135</p> <p>1 story articles I believe on the ovarian cancer  2 and talc papers that have come out, and  3 those -- so those may have appeared on the  4 website.  5 Q. Yeah. That wasn't my question.  6 My question was: Have you gone to  7 anyone at Fred Hutchinson and said we should be  8 warning women about the link between talc and  9 ovarian cancer on the Fred Hutchinson website?  10 A. I don't believe I have.  11 Q. Does Fred Hutchinson know how much  12 money you have made in connection with your  13 expert work in talc litigation since 2021?  14 A. They know per year, yes. Each year  15 I have to report how much I've made.  16 Q. Have you donated any of the money  17 that you've made in litigation to Fred  18 Hutchinson?  19 A. I've donated money to them. I  20 don't know if you'd say -- I didn't say where  21 it came from. I just donated.  22 Q. What's ACOG?  23 A. I believe it's American College of  24 Oncology and Gynecology, but I may not be  25 right. I'm not sure what you're referring to.</p>	<p>Page 137</p> <p>1 ACOG. I see something that says stage refers  2 to --  3 MS. O'DELL: Are you going to put  4 that into the chat, Asher?  5 Sorry to --  6 MR. TRANGLE: Yeah. I just had to  7 scroll up so she could see.  8 MS. O'DELL: Thank you.  9 MR. TRANGLE: Can I go to the next  10 page?  11 MS. DAVIDSON: Please do.  12 BY MS. DAVIDSON:  13 Q. Dr. McTiernan, does this list from  14 ACOG of risk factors for ovarian cancer list  15 talc?  16 A. I don't see all of them. I just  17 see down to fertility, and it says, "These risk  18 factors include the following."  19 So it doesn't look like it's --  20 that it's looking at all possible or mentioning  21 all possible risk factors.  22 Q. Dr. McTiernan, on the next break,  23 can you try to figure out why you're not seeing  24 the full screen that we're all seeing?  25 A. I tried that before, and this is</p>

<p>1 not a problem I've had before.  2 I think if I'm allowed to open up  3 what Asher puts on --  4 Q. Sure.  5 A. -- then -- then I can see better.  6 Q. Sure.  7 MS. O'DELL: You can certainly do  8 that, Doctor.  9 MS. DAVIDSON: Asher, you can also  10 just move it up so that the risk factors  11 are at the top half.  12 Apparently, it seems that  13 Dr. McTiernan has trouble seeing the  14 bottom of the screen, and I don't know  15 why.  16 BY MS. DAVIDSON:  17 Q. Dr. McTiernan, do you have the  18 pictures of all of us on the side going up and  19 down?  20 A. No. They're on -- on top.  21 Q. So I don't know how to --  22 MS. O'DELL: I think if you mark it  23 in your -- as standard view,  24 Dr. McTiernan, it may be better.  25 But again, just feel free to</p>	<p>Page 138</p> <p>1 Do you see that?  2 A. Yes.  3 Q. Does ACOG on its website suggest  4 that than one way to reduce the risk of ovarian  5 cancer is not to use talcum powder?  6 MS. O'DELL: Object to form.  7 THE WITNESS: It looks like they  8 only talk about the pill and  9 sterilization. They don't mention  10 aspirin, for example, either.  11 So that -- it's not a full list  12 of -- of ways to prevent ovarian cancer.  13 BY MS. DAVIDSON:  14 Q. Is talc on there?  15 A. I don't see talc, no.  16 Q. And you don't see a recommendation  17 to stop using talcum powder, correct?  18 MS. O'DELL: Object to the form.  19 Asked and answered.  20 THE WITNESS: I don't see talc on  21 here at all.  22 MS. DAVIDSON: Let's -- you can  23 take that down, Asher.  24 BY MS. DAVIDSON:  25 Q. Dr. McTiernan, you have previously</p>
<p>Page 139</p> <p>1 download the exhibit and take a look at  2 it.  3 BY MS. DAVIDSON:  4 Q. Anyway, my question was simply:  5 Does this list include talc?  6 MS. O'DELL: Again, please feel  7 free to look -- look at the document if  8 you -- if you need to.  9 BY MS. DAVIDSON:  10 Q. Dr. McTiernan, do you have the  11 bullets in front of you?  12 A. Yes.  13 Q. Okay. Do you remember my question?  14 A. Whether talc was there. I don't  15 see it.  16 Q. Okay. Thank you.  17 And if we could turn to "Reducing  18 Risks, how can I reduce my risk of ovarian  19 cancer," which is about two pages later, and  20 you should have that in -- it's up to you  21 whether you want to look at it on the screen or  22 whether you want to look at it in the document  23 that Asher sent you, but there is a subheading  24 that says, "How can I reduce my risk of ovarian  25 cancer?"</p>	<p>Page 141</p> <p>1 testified that CDC is a leading public health  2 authority.  3 Do you still hold that view?  4 A. I do, yes.  5 Q. As of your last deposition, CDC's  6 list of risk factors for ovarian cancer did not  7 include cosmetic talc, as you testified in  8 2021.  9 Do you recall that?  10 A. No, I don't recall.  11 Q. Do you know whether CDC currently  12 lists talcum powder as a risk fac- -- talcum  13 powder use as a risk factor for ovarian cancer?  14 A. I have not checked recently, so I  15 don't know.  16 MS. DAVIDSON: Let's mark  17 Exhibit 10.  18 (Whereupon, Exhibit No. 10,  19 Document entitled, "Centers for Disease  20 Control. What are the Risk Factors for  21 Ovarian Cancer", was marked for  22 identification.)  23 MS. DAVIDSON: Exhibit 10 is a  24 document entitled "Centers for Disease  25 Control. What are the Risk Factors for OC</p>

<p>1 and -- Ovarian Cancer."</p> <p>2 BY MS. DAVIDSON:</p> <p>3 Q. And Asher, I believe, has sent it</p> <p>4 to you if you cannot see it on the screen.</p> <p>5 This one you might be see it on the screen</p> <p>6 because the bottom half of the page is blank.</p> <p>7 So if your problem is the bottom, then you</p> <p>8 should perhaps be able to see it; but Asher, I</p> <p>9 believe, has also stuck it in the chat.</p> <p>10 Let me know when you're ready to</p> <p>11 talk about it.</p> <p>12 MS. O'DELL: You -- you have an</p> <p>13 indication on the document where it came</p> <p>14 from?</p> <p>15 MS. DAVIDSON: Asher, my hard copy</p> <p>16 has Centers for Disease Control at the</p> <p>17 top.</p> <p>18 MR. TRANGLE: I can go to their</p> <p>19 website and reprint it. It's --</p> <p>20 MS. DAVIDSON: Great.</p> <p>21 MR. TRANGLE: -- just from their</p> <p>22 website.</p> <p>23 MS. O'DELL: Why don't you put the</p> <p>24 link in the chat if you don't mind, Asher,</p> <p>25 just where you're --</p>	<p>Page 142</p> <p>1 the web page up and share that. Is</p> <p>2 that --</p> <p>3 MS. DAVIDSON: Great. Yes. That's</p> <p>4 perfect.</p> <p>5 MR. TRANGLE: So you can see in</p> <p>6 the -- in the bar here CDC.</p> <p>7 MS. DAVIDSON: Perfect. And</p> <p>8 let's -- Asher, when you send the exhibits</p> <p>9 at the end of the deposition to the court</p> <p>10 reporter, send this version with --</p> <p>11 MR. TRANGLE: I'll send a</p> <p>12 screenshot of it, yeah.</p> <p>13 MS. O'DELL: Thank you. Thank you.</p> <p>14 BY MS. DAVIDSON:</p> <p>15 Q. Are you ready to answer?</p> <p>16 A. Yes.</p> <p>17 Q. Do you remember the question?</p> <p>18 A. No, I don't.</p> <p>19 Q. I'm sorry?</p> <p>20 A. No, I don't remember.</p> <p>21 Q. My question was: Does this list of</p> <p>22 risk factors include talcum powder use?</p> <p>23 A. I don't see it there.</p> <p>24 Q. Thank you.</p> <p>25 Have you ever contacted the CDC to</p>
<p>Page 143</p> <p>1 MR. TRANGLE: Yeah. That might be</p> <p>2 easier.</p> <p>3 MS. O'DELL: -- getting it. Yeah.</p> <p>4 I just -- I'm not doubting you. I just</p> <p>5 don't see it on the exhibit. I just want</p> <p>6 to make sure I understand what we're</p> <p>7 looking at.</p> <p>8 MS. DAVIDSON: Asher's not really</p> <p>9 the nefarious sort.</p> <p>10 MS. O'DELL: I just -- I want to</p> <p>11 know what we're looking at. I'm not</p> <p>12 suggesting one way or the another.</p> <p>13 BY MS. DAVIDSON:</p> <p>14 Q. Dr. McTiernan, in --</p> <p>15 A. Yes.</p> <p>16 Q. -- in this list of risk factors for</p> <p>17 ovarian cancer, does the CDC mention talc or</p> <p>18 talcum powder use?</p> <p>19 MS. O'DELL: And I'll just say for</p> <p>20 the record, Dr. McTiernan, I did go to the</p> <p>21 link; and that it is from the CDC website.</p> <p>22 THE WITNESS: Okay. I can't get it</p> <p>23 open for some reason. Oh, I see. It's a</p> <p>24 link not an actual document.</p> <p>25 MR. TRANGLE: What if I just put</p>	<p>Page 145</p> <p>1 suggest that they add talcum powder to their</p> <p>2 website?</p> <p>3 A. I don't believe I have, no.</p> <p>4 Q. Have you ever contacted to ACOG to</p> <p>5 suggest that they add talcum powder use to the</p> <p>6 risk factors listed on their website?</p> <p>7 A. No.</p> <p>8 Q. All right. Let's move on. We've</p> <p>9 been going about an hour.</p> <p>10 Do you need a break, or do you want</p> <p>11 to continue?</p> <p>12 A. Actually, a break would be great.</p> <p>13 MS. DAVIDSON: Okay. Let's take</p> <p>14 five minutes or seven. What do you want?</p> <p>15 THE WITNESS: Ten.</p> <p>16 MS. DAVIDSON: Ten. Oh, my gosh.</p> <p>17 THE WITNESS: Yeah.</p> <p>18 MS. DAVIDSON: All right. Your</p> <p>19 bathroom must be very -- you must have a</p> <p>20 very big house. I, on the other hand,</p> <p>21 live in a tiny Manhattan apartment, so I</p> <p>22 don't need ten.</p> <p>23 THE WITNESS: I have to heat -- I</p> <p>24 have to heat up my coffee or tea.</p> <p>25 MS. DAVIDSON: Got it. We'll be</p>

<p>1 back at 4:32 Eastern, 1:32 Pacific, 2 3:32 Central. 3 THE VIDEOGRAPHER: The time is 4 1:22 p.m. We're off the record. 5 (Whereupon, a break was taken.) 6 THE VIDEOGRAPHER: The time is 7 1:33 p.m. We're back on the record. 8 BY MS. DAVIDSON: 9 Q. Dr. McTiernan, you're familiar with 10 the NCI PDQ page; we've previously talked about 11 it in prior depositions, correct? 12 A. Yes. 13 Q. Do you know whether that page has 14 been updated since 2021? 15 A. I don't know. It's not something I 16 typically go look at. 17 Q. Have you ever reached out to the 18 authors of the PDQ to suggest that you disagree 19 with what they have written there about ovarian 20 cancer and talcum powder? 21 A. I have not. 22 Q. Do you know what the purpose of the 23 PDQ is? 24 A. I don't. 25 Q. Do you know what the letters</p>	<p>Page 146</p> <p>1 BY MS. DAVIDSON: 2 Q. Are you aware that the PDQ was 3 updated in June 2023? 4 A. Nope. 5 MS. O'DELL: Object to the form. 6 Asked and answered. Dr. -- 7 Dr. McTiernan's answer was better -- more 8 quick than my objection. Sorry. 9 MS. DAVIDSON: I didn't hear the 10 answer because -- everybody is talking 11 over each, so I didn't hear the answer. 12 THE WITNESS: My answer was no. 13 MS. DAVIDSON: Okay. Can we mark 14 as Exhibit 10 the NCI PDQ Ovarian, 15 Fallopian, and Primary Peritoneal Cancer 16 Prevention web page dated June 29th, 2023? 17 THE COURT REPORTER: I think we're 18 up to 11. It's Exhibit 11. 19 MS. DAVIDSON: Oh, I'm sorry. I 20 forgot to write down CDC, didn't I? 21 After telling -- the one mentorship 22 I gave Asher was always keep a really good 23 list, but then I screwed it up. 24 But yes, 10 was CDC, and 11 as NCI 25 PDQ.</p>
<p>Page 147</p> <p>1 "P-D-Q" stand for? 2 A. Not offhand, no. 3 Q. Do you know if the "P" in PDQ 4 stands for "physician"? 5 A. I don't know. 6 Q. Do you know if physicians are the 7 intended audience of the PDQ? 8 A. I don't know. I -- I recall, I 9 think, that there's both a physician and a 10 patient page; but I -- I'm not -- I haven't 11 looked at it recently, so I don't know if 12 that's still the case. 13 Q. You testified in 2021 that you 14 believe the PDQ is out of date. 15 Is that still your position? 16 MS. O'DELL: Object -- 17 THE WITNESS: I haven't looked at 18 it recent -- I'm sorry. 19 MS. O'DELL: Sorry. I was going to 20 actually object. 21 She said she hadn't seen the reason 22 version. If you want to ask her whether 23 it's out of date, she would need to look 24 at that.</p>	<p>Page 149</p> <p>1 MS. O'DELL: And it's in the chat, 2 Dr. McTiernan, if you want to pull up the 3 entire document. 4 (Whereupon, Exhibit No. 11, 5 National Cancer Institute Publication 6 entitled, "Ovarian, Fallopian Tube, and 7 Primary Peritoneal Cancers Prevention 8 (PDQ®)-Health Professional Version", was 9 marked for identification.) 10 BY MS. DAVIDSON: 11 Q. As of 2023, I'd like to turn your 12 attention to the subsection entitled "Factors 13 With Inadequate Evidence of Association." 14 MS. DAVIDSON: What page is that, 15 Asher? 16 Here we go. 17 MS. O'DELL: So Dr. McTiernan, if 18 you need to look at the document before 19 you answer the questions, feel free to do 20 that. 21 BY MS. DAVIDSON: 22 Q. So do you see the heading on 23 page 17 -- is that 17? Yes -- that says, 24 "Factors With Inadequate Evidence of An 25 Association Risk of Ovarian, Fallopian Tube,</p>

<p>1 and Primary Peritoneal Cancers"?</p> <p>2 A. I'm scrolling down so I can find</p> <p>3 it.</p> <p>4 Q. Page 17.</p> <p>5 A. I see it.</p> <p>6 Q. First item under Factors with</p> <p>7 Inadequate Evidence of an Association Risk of</p> <p>8 Ovarian, Fallopian Tube, and Primary Peritoneal</p> <p>9 Cancers is dietary factors, correct?</p> <p>10 A. Yes.</p> <p>11 Q. And the second subsection is</p> <p>12 aspirin and nonsteroidal anti-inflammatory</p> <p>13 drugs, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And what is the third subsection</p> <p>16 under the heading "Factors with Inadequate</p> <p>17 Evidence of an Association Risk of Ovarian,</p> <p>18 Fallopian Tube, or Primary Peritoneal Cancers?</p> <p>19 A. It states "Peritoneal talc</p> <p>20 exposure."</p> <p>21 Q. Do you disagree with this</p> <p>22 conclusion?</p> <p>23 A. I do.</p> <p>24 Q. Do you think that NCI is</p> <p>25 unreasonable in reaching a different opinion</p>	<p>Page 150</p> <p>1 Q. Could a reasonable scientist who</p> <p>2 conducts a systematic review of the literature</p> <p>3 in 2023 reach a different conclusion from</p> <p>4 yours?</p> <p>5 MS. O'DELL: Object to form.</p> <p>6 THE WITNESS: Could you state it</p> <p>7 again, the question?</p> <p>8 Ask the question again.</p> <p>9 BY MS. DAVIDSON:</p> <p>10 Q. Sure.</p> <p>11 MS. DAVIDSON: Suzanne.</p> <p>12 (At which time the following was</p> <p>13 read back:</p> <p>14 "Question: Could a reasonable</p> <p>15 scientist who conducts a systematic review</p> <p>16 of the literature in 2023 reach a</p> <p>17 different conclusion from yours?")</p> <p>18 MS. O'DELL: Object to the form.</p> <p>19 THE WITNESS: I -- I think if</p> <p>20 somebody used the principles of looking at</p> <p>21 of doing systematic reviews, looking at</p> <p>22 all of the data, doing a Bradford Hill</p> <p>23 analysis would come to the conclusion that</p> <p>24 I did, that talcum powder exposure to the</p> <p>25 peritoneal area can increase risk and</p>
<p>Page 151</p> <p>1 from yours?</p> <p>2 A. First of all, it's not NCI. It's a</p> <p>3 separate board that -- that makes the</p> <p>4 determination of what or approves what goes</p> <p>5 into this -- these sections in different areas.</p> <p>6 And they did not do a systematic review. They</p> <p>7 -- and they interpret the data in a different</p> <p>8 way than I do.</p> <p>9 For example, you can see they're</p> <p>10 talking about the meta-analysis and a pooled</p> <p>11 analysis, and they found a 24-percent increased</p> <p>12 risk of epithelial-bearing cancer with genital</p> <p>13 powder use. That was statistically</p> <p>14 significant.</p> <p>15 And I noticed as -- when -- when I</p> <p>16 opened this document, that they classify</p> <p>17 obesity that had a lower relative risk as being</p> <p>18 something that -- adequate evidence.</p> <p>19 So I'm not sure how they decide</p> <p>20 what's adequate or inadequate, but I disagree</p> <p>21 with this classification as being inadequate.</p> <p>22 Q. Have you tried to contact the</p> <p>23 editorial board that is responsible for PDQs to</p> <p>24 express your concerns?</p> <p>25 A. No, I have not.</p>	<p>Page 153</p> <p>1 cause ovarian cancer.</p> <p>2 BY MS. DAVIDSON:</p> <p>3 Q. Are you -- do you personally know</p> <p>4 either Dr. O'Brien or Dr. Wentzensen?</p> <p>5 A. I've had some e-mail correspondence</p> <p>6 with Dr. Wentzensen about something unrelated,</p> <p>7 but I don't know him personally.</p> <p>8 Q. Do you have respect for</p> <p>9 Dr. Wentzensen?</p> <p>10 A. He's an epidemiologist, and I</p> <p>11 believe a gynecologist at NCI.</p> <p>12 Q. Do you have any reason to doubt his</p> <p>13 scientific integrity?</p> <p>14 MS. O'DELL: Object to form.</p> <p>15 THE WITNESS: No.</p> <p>16 BY MS. DAVIDSON:</p> <p>17 Q. Do you know Dr. O'Brien?</p> <p>18 A. I don't know her personally.</p> <p>19 Q. Do you have any reason to doubt her</p> <p>20 scientific integrity?</p> <p>21 MS. O'DELL: Object to form.</p> <p>22 THE WITNESS: No.</p> <p>23 BY MS. DAVIDSON:</p> <p>24 Q. If Dr. O'Brien and Dr. Wentzensen</p> <p>25 have different opinions from yours, do you</p>

<p>1 believe that their opinions are unscientific?</p> <p>2 A. That's a -- that's a very -- it's</p> <p>3 kind of a vague question. I don't really know</p> <p>4 how to answer that.</p> <p>5 I think if we're talking about a</p> <p>6 pin paper that they've written, about what</p> <p>7 they -- what they concluded from data, I could</p> <p>8 answer that. But I think this is -- it's too</p> <p>9 vague of a question for me to answer.</p> <p>10 Q. Do you believe that every scientist</p> <p>11 who has reached a different conclusion from you</p> <p>12 with respect to a potential relationship</p> <p>13 between talc and ovarian cancer is</p> <p>14 unreasonable?</p> <p>15 MS. O'DELL: Object to the form.</p> <p>16 THE WITNESS: I don't know -- I've</p> <p>17 not seen or heard or talked with the</p> <p>18 universe of people that might have</p> <p>19 evaluated this literature, so I can't</p> <p>20 answer that question.</p> <p>21 BY MS. DAVIDSON:</p> <p>22 Q. Is it possible for someone to</p> <p>23 disagree with you with respect to perineal talc</p> <p>24 exposure and still have a reasonable opinion?</p> <p>25 A. All I can say --</p>	<p>Page 154</p> <p>1 all risk factors.</p> <p>2 They just said that the risk</p> <p>3 factors that they presented -- sorry.</p> <p>4 They just said that the risk</p> <p>5 factors -- sorry.</p> <p>6 They just said that risk factors</p> <p>7 can include or include, and then they list</p> <p>8 five or six things. But there are --</p> <p>9 there would be other risk factors that are</p> <p>10 missing, and talc is one of them.</p> <p>11 BY MS. DAVIDSON:</p> <p>12 Q. Do you think talcum powder should</p> <p>13 be on those two lists?</p> <p>14 A. Yes.</p> <p>15 Q. Do you think it's unreasonable of</p> <p>16 ACOG and CDC not to have talc on those lists?</p> <p>17 MS. O'DELL: Object to form and</p> <p>18 asked answered.</p> <p>19 THE WITNESS: I'm not sure about</p> <p>20 the word "unreasonable." I would say it's</p> <p>21 missing.</p> <p>22 BY MS. DAVIDSON:</p> <p>23 Q. Are you familiar with SGO?</p> <p>24 A. I don't know what it stands for.</p> <p>25 Q. Are you familiar with the Society</p>
<p>Page 155</p> <p>1 MS. O'DELL: Object to the form.</p> <p>2 THE WITNESS: All I can say is that</p> <p>3 what my evaluation is of the literature,</p> <p>4 my causal analysis, and what I concluded</p> <p>5 from that.</p> <p>6 BY MS. DAVIDSON:</p> <p>7 Q. Is it your opinion that the PDQ</p> <p>8 that's in front of us right now is</p> <p>9 unreasonable?</p> <p>10 MS. O'DELL: Object to the form.</p> <p>11 THE WITNESS: It's my opinion that</p> <p>12 they did not do a systematic review and a</p> <p>13 causal analysis. I don't -- and from what</p> <p>14 is presented here, it's not -- it doesn't</p> <p>15 look like they have looked at and</p> <p>16 evaluated all of the available data.</p> <p>17 BY MS. DAVIDSON:</p> <p>18 Q. Is it your opinion that ACOG and</p> <p>19 CDC are -- are giving unreasonable advice by</p> <p>20 failing to include talcum powder as a risk</p> <p>21 factor on their websites?</p> <p>22 MS. O'DELL: Object to the form.</p> <p>23 THE WITNESS: I believe they're --</p> <p>24 both websites present some risk factors</p> <p>25 but not all, and they don't claim to list</p>	<p>Page 157</p> <p>1 of Gynecologic Oncology?</p> <p>2 A. No. It sounds familiar, but it's</p> <p>3 not something I'm part -- that I've ever been</p> <p>4 part of, and I don't think I've gone to their</p> <p>5 meetings.</p> <p>6 Q. Do you know if the SGO in 2023</p> <p>7 lists talcum powder as a risk factor for</p> <p>8 ovarian cancer?</p> <p>9 A. I don't know.</p> <p>10 Q. Have you ever contacted SGO and</p> <p>11 asked them to add talcum powder to their list</p> <p>12 of risk factors for the development of ovarian</p> <p>13 cancer?</p> <p>14 A. No.</p> <p>15 Q. Have you reached out to any</p> <p>16 regulatory agency since 2021 to express your</p> <p>17 concerns about the alleged link between talcum</p> <p>18 powder exposure and the development of ovarian</p> <p>19 cancer?</p> <p>20 MS. O'DELL: Object to the form.</p> <p>21 You can answer.</p> <p>22 THE WITNESS: I don't believe I</p> <p>23 have.</p> <p>24 MS. DAVIDSON: I'd like to mark</p> <p>25 Exhibit 12, a paper called "Association</p>

<p>Page 158</p> <p>1 Between the Frequent Use of Perineal  2 Talcum Powder Products and Ovarian Cancer:  3 A Systematic Review and Meta-Analysis," by  4 Sean Woolen.  5 (Whereupon, Exhibit No. 12,  6 Publication entitled, "Association Between  7 the Frequent Use of Perineal Talcum Powder  8 Products and Ovarian Cancer: A Systematic  9 Review and Meta-analysis," by Sean A.  10 Woolen, MD MSc, et al., was marked for  11 identification.)</p> <p>12 BY MS. DAVIDSON:</p> <p>13 Q. Are you familiar with this paper?  14 A. Yes.  15 Q. When's the last time you read it?  16 A. I can't say. Sometime in the last  17 week.  18 Q. Do you know any of the authors?  19 A. Let me just look it up.  20 I don't personally know them, no.  21 Q. Do you recognize any of the names?  22 A. I recognize Dr. Smith-Bindman.  23 Q. How do you recognize her name?  24 A. She's -- sorry. She's -- I -- I  25 know that she's an expert in talc litigation.</p>	<p>Page 160</p> <p>1 THE WITNESS: I don't know.  2 BY MS. DAVIDSON:  3 Q. This meta-analysis grew out of an  4 analysis that Dr. Smith-Bindman did in  5 litigation.  6 Should that be disclosed on the  7 paper?  8 MS. O'DELL: Object to the form.  9 THE WITNESS: I think she did  10 disclose that she has been a paid witness  11 for the talcum powder litigation.  12 BY MS. DAVIDSON:  13 Q. That wasn't my question.  14 My question was: If this actual  15 analysis grew out of a litigation project,  16 should that have been disclosed on the paper?  17 MS. O'DELL: Object to the form.  18 THE WITNESS: Yeah. I find -- I  19 can't answer that because I don't have her  20 expert report in front of me. I don't  21 know what her thinking was. I don't know  22 if she worked with somebody at that time  23 or did a -- a rough sketch of analysis.  24 So this -- this paper might look  25 very different than her expert report. I</p>
<p>Page 159</p> <p>1 Q. Have you read any of her expert  2 opinions in the talc litigation?  3 A. Not recently. I think I did read a  4 previous one, but I can't remember when it was.  5 Q. Do you know if this paper is  6 related to any analysis she undertook in the  7 litigation?  8 MS. O'DELL: Object to the form.  9 THE WITNESS: I don't recall.  10 BY MS. DAVIDSON:  11 Q. Do you know if she offered an  12 opinion in talc litigation about frequent use  13 of perineal talcum powder products defined in  14 the same way it's defined in this paper?  15 A. Can you repeat the question,  16 please?  17 MS. DAVIDSON: Suzanne.  18 (At which time the following was  19 read back:  20 "Question: Do you know if she  21 offered an opinion in talc litigation  22 about frequent use of perineal talcum  23 powder products defined in the same way  24 it's defined in this paper?"")  25 MS. O'DELL: Object to the form.</p>	<p>Page 161</p> <p>1 would have no way of knowing, so I can't  2 answer your question.  3 BY MS. DAVIDSON:  4 Q. If you were to publish you're  5 systematic review in the -- if you were to  6 submit it for publication, would you disclose  7 that you conducted the systematic review in  8 association with litigation?  9 A. If -- it would depend. The  10 journals have different ways that they ask us  11 to disclose, and I would just follow their  12 guidelines.  13 Q. Have you submitted your -- any  14 of -- any part of your expert reports from the  15 talc litigation to any journals?  16 A. No, I have not.  17 Q. Do you plan to?  18 A. I haven't thought about it. I  19 can't answer that.  20 Q. Have you been asked that before in  21 a deposition?  22 A. I -- I can't recall every question  23 I've been asked in deposition. If they -- they  24 were a while ago. There were lots of  25 questions, so I can't answer that.</p>

<p>1 Q. Have you ever heard the term 2 "post-hoc analysis"?</p> <p>3 A. Yes.</p> <p>4 Q. Is that a term used in 5 epidemiology?</p> <p>6 A. It can be used in epidemiology. It 7 can be used for clinical trials. There are a 8 lot of different places that I've seen it used.</p> <p>9 Q. What does it mean?</p> <p>10 A. Typically, it would mean that 11 somebody would do an analysis after a study is 12 completed and -- and done its primary analysis.</p> <p>13 So for a clinical trial, if the 14 goal of the clinical trial was to test the 15 effect of the medication on some disease 16 process, if after the fact, they decided they 17 wanted to work within certain subgroups, that 18 might be called post-hoc analysis.</p> <p>19 But it's -- it's an analysis that's 20 commonly done anyway because -- and that's why 21 you collect data on a lot of variables so that 22 you can answer specific questions. So post-hoc 23 usually just means later.</p> <p>24 I can say that most of these 25 studies that we've been looking at in talc</p>	<p>Page 162</p> <p>1 Vague.</p> <p>2 THE WITNESS: Yes. It's too vague 3 for me to answer.</p> <p>4 BY MS. DAVIDSON:</p> <p>5 Q. Are there any risks that you can 6 think of?</p> <p>7 Have you ever done a post-hoc 8 analysis?</p> <p>9 A. Can you tell me what kind of 10 post-hoc analysis you mean?</p> <p>11 Q. Have you ever done a post-hoc 12 analysis of study data?</p> <p>13 A. And by "post-hoc," you mean what?</p> <p>14 Q. You defined post-hoc for me just a 15 few minutes ago?</p> <p>16 A. I said there are different ways you 17 could call something post-hoc. It could be a 18 clinical trial is done, and then you decide to 19 look within subgroups and then call that a 20 post-hoc.</p> <p>21 Q. Well, let's -- let's take that 22 example.</p> <p>23 MS. O'DELL: I'm sorry. Were you 24 finished, Dr. McTiernan?</p> <p>25 THE WITNESS: I'm done.</p>
<p>Page 163</p> <p>1 litigation have done analyses and reanalyses at 2 different times. So any of them could be 3 called post-hoc.</p> <p>4 And cohort studies, for example, 5 they may do an analysis and then do another in 6 a few years and do some subgroup analysis. 7 That could be called post-hoc.</p> <p>8 It's really not so much of a 9 relevant term in epidemiology as it is in 10 clinical trials.</p> <p>11 Q. Are there concerns in the 12 scientific community about post-hoc analyses?</p> <p>13 MS. O'DELL: Objection. Asked and 14 answered.</p> <p>15 THE WITNESS: Yeah. That's -- I 16 can't answer that question.</p> <p>17 It's -- can you be more specific.</p> <p>18 BY MS. DAVIDSON:</p> <p>19 Q. What are the risks of doing a 20 post-hoc analysis --</p> <p>21 MS. O'DELL: Object to form.</p> <p>22 BY MS. DAVIDSON:</p> <p>23 Q. -- of data from studies that have 24 been published?</p> <p>25 MS. O'DELL: Objection to the form.</p>	<p>Page 165</p> <p>1 MS. O'DELL: Okay.</p> <p>2 BY MS. DAVIDSON:</p> <p>3 Q. Let's take that example.</p> <p>4 Are there any concerns that a 5 scientist needs to be careful with in doing 6 what you just described?</p> <p>7 MS. O'DELL: Objection.</p> <p>8 THE WITNESS: In a clinical trial, 9 you just state the clinical trial was done 10 at a certain point, that this was the 11 protocol. You usually have -- give the 12 reader access to the study protocol, and 13 now that's pretty routine. You just state 14 what your hypothesis is.</p> <p>15 So as long as you have a clear 16 hypothesis and state why you're testing 17 that hypothesis and how it can add to the 18 biology or the clinical information, then 19 I can't think of any particular risk 20 you're going to evolve.</p> <p>21 If -- if you end up having -- you 22 don't have a study that's large enough to 23 look within separate groups, then that 24 might be an issue; but then you do a power analysis to look at study power beforehand</p>

<p>1 anyway.</p> <p>2 And so I can't think of a risk of</p> <p>3 it. And we do this all the time in our</p> <p>4 studies. We do it in cohort studies. We</p> <p>5 do it in case-control studies, and we do</p> <p>6 it in clinical trials.</p> <p>7 So there -- often many papers are</p> <p>8 written using previously designed studies</p> <p>9 either to look at a different question or</p> <p>10 in the case of talc and -- talcum powder</p> <p>11 products and ovarian cancer to pooled data</p> <p>12 and look at, therefore, have much larger</p> <p>13 studies and that can answer questions</p> <p>14 about overall associations but certainly</p> <p>15 subgroup associations.</p> <p>16 BY MS. DAVIDSON:</p> <p>17 Q. Do post-hoc analysis ever raise</p> <p>18 concerns about data dredging?</p> <p>19 MS. O'DELL: Object to form.</p> <p>20 THE WITNESS: They wouldn't for me.</p> <p>21 BY MS. DAVIDSON:</p> <p>22 Q. I'm sorry?</p> <p>23 A. They -- they wouldn't for me.</p> <p>24 Q. They wouldn't for you?</p> <p>25 A. Wouldn't. They would not for me.</p>	<p>Page 166</p> <p>1 several papers, and I did reference them</p> <p>2 in my report. In my -- my original report</p> <p>3 and my amended report that there is</p> <p>4 migration of talcum powder up through</p> <p>5 the -- to the peritoneal area -- sorry, to</p> <p>6 the peritoneum area.</p> <p>7 BY MS. DAVIDSON:</p> <p>8 Q. My question is simply: Do you</p> <p>9 agree with the use of the word "speculated" in</p> <p>10 this sentence?</p> <p>11 MS. O'DELL: Object to the form.</p> <p>12 THE WITNESS: It's not a word I</p> <p>13 would use.</p> <p>14 BY MS. DAVIDSON:</p> <p>15 Q. Is that another way of saying you</p> <p>16 disagree?</p> <p>17 A. I would say I wouldn't use that</p> <p>18 word. I would just say -- I would report this</p> <p>19 is what some studies have shown.</p> <p>20 Q. What exclusions/inclusion criteria</p> <p>21 did the authors of this study use?</p> <p>22 MS. DAVIDSON: Asher, I think she's</p> <p>23 just --</p> <p>24 BY MS. DAVIDSON:</p> <p>25 Q. Are -- are you looking at the one</p>
<p>Page 167</p> <p>1 Q. And why do you say that?</p> <p>2 A. Because I think looking at data to</p> <p>3 look at sub- -- it depends on what you're</p> <p>4 talking about post-hoc, so I'm not really sure</p> <p>5 what you mean there.</p> <p>6 But if you're looking at specific</p> <p>7 questions, looking at specific subgroups,</p> <p>8 answering specific hypotheses, then I think</p> <p>9 it's in addition to literature rather than a</p> <p>10 concern.</p> <p>11 MS. DAVIDSON: If we could turn to</p> <p>12 page 2530 of the Woolen paper.</p> <p>13 BY MS. DAVIDSON:</p> <p>14 Q. The authors state on this page, "It</p> <p>15 is widely speculated that trans-genital</p> <p>16 migration of talcum powder through the</p> <p>17 fallopian tubes to the ovaries and peritoneum</p> <p>18 results in inflammation and a cascade of</p> <p>19 changes that result in carcinogenesis."</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Do you agree with the authors that</p> <p>23 this is speculation?</p> <p>24 MS. O'DELL: Object to the form.</p> <p>25 THE WITNESS: I know there's</p>	<p>Page 169</p> <p>1 Asher is putting up, or do you want to --</p> <p>2 A. No. I downloaded the one that</p> <p>3 he --</p> <p>4 Q. Okay.</p> <p>5 A. -- that Asher put into chat.</p> <p>6 Q. Yeah.</p> <p>7 MS. DAVIDSON: So Asher, I don't</p> <p>8 think you need to flip back and forth.</p> <p>9 BY MS. DAVIDSON:</p> <p>10 Q. So my question, I believe, was:</p> <p>11 What were the authors' exclusion/inclusion</p> <p>12 criteria for this meta-analysis?</p> <p>13 A. So it looks like there's a section</p> <p>14 called "Eligibility Criteria and Study</p> <p>15 Selection." And what they state is that they</p> <p>16 included both observational cohort and</p> <p>17 case-control study designs, that the studies</p> <p>18 were included if they reported primary data on</p> <p>19 frequent to find is two or more times per week,</p> <p>20 perineal exposure to talc; and they reported an</p> <p>21 adjusted-odds ratio or hazard ratio in</p> <p>22 confidence intervals for ovarian malignancy.</p> <p>23 They excluded other types of powder</p> <p>24 exposure.</p> <p>25 Q. Have you done -- I'm sorry.</p>

<p>1 MS. O'DELL: She's not finished.    2 If you're not finished, Doctor,    3 just you can continue. But if you are --    4 I just don't want you to get cut off.    5 BY MS. DAVIDSON:    6 Q. Have you done an analysis of    7 whether they included all data that satisfy    8 these, quote, "eligibility criteria"?    9 A. I did not. I assume    10 that they're -- this is a peer-reviewed    11 publication, so that must have been something    12 that was considered by the reviewers.    13 Q. Do you know why the authors    14 selected greater than two times a week as a    15 proxy for frequent use?    16 A. I'm going to have to read through    17 the paper and see what they said about that.    18 Q. Would you like to go off the record    19 and read this paper because I do have a number    20 of questions about it?    21 THE VIDEOGRAPHER: The time is    22 2:04 p.m. We're off the record.    23 (Whereupon, a break was taken.)    24 THE VIDEOGRAPHER: The time is    25 2:24 p.m. Back on the record. We're on</p>	<p>Page 170</p> <p>1 article in front of you already printed out.    2 A. No. I had the one that I    3 downloaded, but I had not printed it. So I    4 printed it now, and I've been looking through    5 it.    6 It sounds like your question is:    7 Why did the pick two times -- two or more times    8 a week.    9 Q. As a proxy for frequent use.    10 A. Yes. And I didn't see anything on    11 my first review. I didn't see any reason for    12 that.    13 Q. Do you know whether any other    14 studies have reported frequent use with a    15 different metric?    16 A. I don't know. I noticed that this    17 paper and the supplemental data -- paper do    18 have the Nurses Health Study data showing daily    19 users. So maybe it's what data were available.    20 For data users, they showed a    21 relative risk of 1.27 that was statistically    22 significant. So and -- but I'm not sure why    23 overall they picked two plus. I would have to    24 look at a summary of all those included studies    25 to see how they categorized.</p>
<p>1 the record.    2 MS. DAVIDSON: I have to confess    3 that I, too, have forgotten what the    4 pending question was when we went off the    5 record.    6 So can you remind us.    7 THE COURT REPORTER: Sure.    8 MS. DAVIDSON: Thanks, Suzanne.    9 THE COURT REPORTER: You're    10 welcome.    11 (At which time the following was    12 read back:    13 "Question: Do you know why the    14 authors selected greater than two times a    15 week as a proxy for frequent use?"")    16 BY MS. DAVIDSON:    17 Q. Dr. McTiernan, are you looking at    18 something or --    19 A. I'd forgotten about that question.    20 I was just trying to read through -- first of    21 all, I printed out the article so I could read    22 it, and I'd forgotten that that -- there was    23 that question pending.    24 Q. Wait. I think you said at the    25 beginning of the deposition that you had that</p>	<p>Page 171</p> <p>1 So when people are asked how often    2 they use things, sometimes they were asked in    3 an interview a specific question, how often per    4 week or per month did you use this; but    5 sometimes they were given categories to choose    6 from. So perhaps it's for that reason, but I    7 don't know the answer.    8 Q. Do you recall any other studies    9 that you've reviewed in the talc literature    10 that defined frequent use differently?    11 A. I would have to look through and    12 see what the different studies have done.    13 Q. Do you know whether there are any    14 other cohort studies that contain data on talc    15 use of greater than two times a week?    16 A. I would have to review some of the    17 studies to not have frequency -- like the    18 Women's Health at issue did not have frequency.    19 So it -- it depends on what they had.    20 Q. My question is: Do you recall any    21 other cohort studies from your systematic    22 review that provide data on use twice more or    23 more a week?    24 MS. O'DELL: Objection to the form.    25 Asked and answered.</p>

<p>1           THE WITNESS: I don't recall 2 without looking at the specific data to 3 see what they had. 4           I did notice this paper includes 5 Nurses Health Study data for daily use as 6 well as their overall analysis of two or 7 more times a week. 8 BY MS. DAVIDSON: 9           Q. Does this paper include data from 10 NHS1? 11          A. No, it does not. 12          Oh, I'm sorry. This is an NH1, 13 Nurses Health Study. These are -- these are 14 referred to in different ways. We always call 15 a Nurses Health -- the first study just Nurses 16 Health Study, and the study after that is 17 Nurses Health 2; but it looks like they're 18 calling it Nurses Health 1 here. 19          Q. Is the data they rely on from 20 Nurses Health 1 published? 21          A. It looks like -- let me see. Let's 22 see what they said. 23          It looks like it was not previously 24 published, but that's standard. The Terry 25 pooled study included three -- data from three</p>	<p>Page 174</p> <p>1 this, in this meta-analysis? 2          A. It states it wasn't because there 3 were too few people with high exposure 4 category. Only two women. So they did not 5 include that. 6          Q. Did the sister study report on talc 7 use greater than five times per week? 8          A. I don't know. I'd have to look at 9 that paper. 10         Q. Do you recall, sitting here today, 11 whether the sister study reported on frequent 12 use? 13         MS. O'DELL: Objection to the form. 14         Asked and answered. 15         THE WITNESS: It should be in my 16 previous report. I don't -- I don't 17 recall what was in that. 18 BY MS. DAVIDSON: 19         Q. Did these authors include all women 20 from the NHS1 study who reported use of more 21 than twice a week? 22         MS. O'DELL: Object to the form. 23         THE WITNESS: I'd have to look 24 through the study to see if they specify 25 some -- whether it's a sub-sample.</p>
<p>Page 175</p> <p>1 studies not previously studied, and other 2 pooled studies have that done as well. 3          MS. O'DELL: Did you say "pooled 4 studies" there at the end? "Pooled"?" 5          THE WITNESS: Pooled, other pooled 6 studies, yes. 7 BY MS. DAVIDSON: 8          Q. Are you aware of any concerns that 9 can arise with relying on unpublished data? 10         MS. O'DELL: Objection. 11         THE WITNESS: I think it's -- it's 12 a strength to add unpublished data. This 13 is Nurses Health Study data. It's 14 well-characterized cohort. 15         If they allow these investigators 16 to have data, then they have to have 17 approved it. So Nurses Health Study would 18 have had a request -- a system of 19 requesting data and -- and then allowing 20 it. 21         So I think it's a strength that 22 there are data from Nurses Health that 23 weren't previously published. 24 BY MS. DAVIDSON: 25         Q. Was the sister study included in</p>	<p>Page 177</p> <p>1 BY MS. DAVIDSON: 2          Q. You read the study during our 3 break, right? 4          A. Yes. But I did not know your 5 questions ahead of them, so I couldn't memorize 6 everything in the paper. I need to see -- to 7 answer that question, I need to see what they 8 said. 9          Q. So based on your read, you don't 10 know if you included all the women from the 11 NHS1 study? 12         MS. O'DELL: Objection. She's 13 trying to answer your question. This is 14 not a memory test. If you'd like an 15 answer to your question, give 16 Dr. McTiernan a moment. I'm sure she'll 17 answer you. 18         Suzanne, would you mind repeating 19 the question, please, the initial 20 question. 21         (At which time the following was 22 read back: 23         "Question: So based on your 24 review" --) 25         THE WITNESS: So -- oh, go ahead.</p>

<p>1 (At which time the following was 2 read back: 3 "Question: So based on your read, 4 you don't know if you included all the 5 women from the NHS1 study?" 6 MS. O'DELL: Objection. 7 You may answer. 8 THE WITNESS: So this study this 9 analysis included, it looks like, 77,000 10 women without cancer and 1,200 women with 11 cancer from the Nurses Health Study 1. 12 So if we look at the O'Brien 13 analysis, it looks like that included 14 79,055 women and 1,224 with ovarian 15 cancer. So it looks like it's a very 16 similar number. 17 BY MS. DAVIDSON: 18 Q. So your understanding is that the 19 Woolen paper includes all women from NHS1 who 20 had usage more than twice a week? 21 MS. O'DELL: Objection to the form. 22 THE WITNESS: I didn't see where 23 that is specified. So again, I ' have to 24 read through the paper exactly. 25 But what I can see from</p>	<p>Page 178</p> <p>1 THE WITNESS: Yeah. I -- I can't 2 answer the question. There are different 3 numbers here and different tables. So I'm 4 not sure why those numbers vary, but it 5 looks like they had access to the -- the 6 same Nurses Health Study data as was 7 included in O'Brien. 8 BY MS. DAVIDSON: 9 Q. So you're saying you don't know why 10 Woolen uses fewer women from NHS1 than O'Brien 11 in terms of daily users; is that correct? 12 MS. O'DELL: Object to the form. 13 THE WITNESS: Well, O'Brien 14 didn't -- didn't analyze daily users so... 15 BY MS. DAVIDSON: 16 Q. Did O'Brien have information on 17 daily users? 18 MS. O'DELL: Object to the form. 19 THE WITNESS: Again, I'm going to 20 have to look at that. They -- 21 MS. O'DELL: Excuse me, Doctor, 22 just quickly. 23 If you're going to ask her to 24 compare the O'Brien pooled analysis to 25 this paper, then I would just ask you to</p>
<p>Page 179</p> <p>1 supplementary Table 1 in Woolen, that 2 there was 77,000 women and 1,200 ovarian 3 cancer cases. 4 And it looks like for the 5 meta-analysis, it's a smaller number. So 6 I'm not sure why -- it looks like it's 7 31,000 unexposed. 38,000 all together and 8 about 600 cases. 9 MS. O'DELL: Do you have another 10 question, Jessica? 11 MS. DAVIDSON: I -- I believe she's 12 still looking for the answer to my 13 question. 14 MS. O'DELL: I think she's answered 15 your question. I think she's answered 16 your question. 17 MS. DAVIDSON: No, I don't think 18 so. She's still looking to figure it out. 19 MS. O'DELL: I -- I don't believe 20 that to be the case. 21 MS. DAVIDSON: I see her looking at 22 a paper. 23 MS. O'DELL: That doesn't mean -- 24 that doesn't mean she's not finished with 25 her answer.</p>	<p>Page 181</p> <p>1 mark the O'Brien study so she can -- she 2 can do that. 3 MS. DAVIDSON: The way we got into 4 this is I just wanted to know if this 5 study included all of the available women 6 from NHS1 who reported daily use, and 7 Dr. McTiernan, I think, was comparing it 8 to O'Brien to determine that. I wasn't 9 asking about O'Brien. That's my 10 understanding of what she -- of what she 11 was doing. 12 And I -- my understanding is that 13 Dr. McTiernan has now testified that it 14 looks like the numbers are different, but 15 she doesn't know why. 16 BY MS. DAVIDSON: 17 Q. Is that accurate Dr. McTiernan? 18 MS. O'DELL: I believe that 19 misstates her testimony. 20 MS. DAVIDSON: Okay. So then I 21 want to -- 22 MS. O'DELL: Hang on. There's a 23 number of questions there. Misstates her 24 testimony. And then when you got into 25 O'Brien, you compared the numbers.</p>

<p>1 I'm just stating if you're going to  2 do that, that's fine. We just need to  3 mark it for the record and then allow  4 Dr. McTiernan to compare the numbers.  5 But -- so what's your current  6 question?</p> <p>7 BY MS. DAVIDSON:</p> <p>8 Q. Dr. McTiernan, what you said --  9 MS. DAVIDSON: You objected to my  10 question.  11 What do you mean what's my current  12 question?  13 The one you just objected to. Does  14 it need to be repeated?  15 I mean, your objections are so long  16 that I can't blame Dr. McTiernan that she  17 forgets the question.  18 MS. O'DELL: No. That's not it.  19 That's not it -- that's not it at all.  20 I mean, what I was just trying to  21 explain to you is what the concern was.  22 So Dr. --  23 MS. DAVIDSON: Suzanne, why don't  24 you just reread the pending question that  25 Leigh just objected to.</p>	<p>1 to O'Brien to determine that. I wasn't  2 asking about O'Brien. That's my  3 understanding of what she -- of what she  4 was doing.  5 And I -- my understanding is that  6 Dr. McTiernan has now testified that it  7 looks like the numbers are different, but  8 she doesn't know why. Is that accurate,  9 Dr. McTiernan?"  10 THE WITNESS: Yeah. I think I  11 understand now what's going on. In the  12 one paper, the supplementary table that  13 shows risk of ovarian cancer compared to  14 nonusers, is -- looks at risk in less  15 frequent users and in daily users.  16 And so it shows no increased risk  17 with less frequent users, but a 27-percent  18 statistically significant increase risk  19 with daily users.  20 Now, what was presented in the  21 ta- -- in the figure, figure 2 in the  22 Woolen paper was the data without those  23 less frequent users because that was the  24 question in the Woolen paper: What is the  25 risk of ovarian cancer in frequent users.</p>
<p>1 THE COURT REPORTER: Okay. Give me  2 a minute.  3 (At which time the following was  4 read back:  5 "Question: Did O'Brien have  6 information on daily users?"  7 MS. DAVIDSON: No, no, no. It was  8 after that.  9 THE COURT REPORTER: Oh, okay.  10 MS. DAVIDSON: The most recent  11 question and Leigh said objection.  12 THE COURT REPORTER: Okay. Sorry.  13 Let me know if this is the one.  14 MS. DAVIDSON: It's where I  15 repeat -- where -- right before Leigh said  16 objection. Misstates her testimony. That  17 was the most recent question.  18 THE COURT REPORTER: Okay.  19 (At which time the following was  20 read back:  21 "Question: The way we got into  22 this is I just wanted to know if this  23 study included all of the available women  24 from NHS1 who reported daily use, and  25 Dr. McTiernan, I think, was comparing it</p>	<p>1 Page 183  2 So -- and now it makes sense that  3 these numbers are not identical. So what  4 they did for all these studies, the  5 case-control and the cohort studies, is  6 compare nonusers to women who used two or  7 more times a week.  8 So that explains why those numbers  9 don't match up.  9 BY MS. DAVIDSON:  10 Q. So what is the NHS1 risk ratio  11 that's reported in the paper?  12 A. Well, there are two that are  13 reported, but there -- the one for use of two  14 or more times per week what they're defining as  15 frequent is 1.4 with a confidence interval of  16 1.17 to 1.68.  17 Q. Is that the same as the 27-percent  18 increase you just mentioned?  19 A. No. That's the daily users. So  20 Supplementary Table 1 divides women into daily  21 users, less frequent, and nonusers.  22 Q. And so what does "less frequent  23 users" mean?  24 A. I don't know if they define that.  25 I don't think they specify what</p>

<p style="text-align: right;">Page 186</p> <p>1 that means.</p> <p>2 Q. So is it -- is it your testimony</p> <p>3 that the 1.27 relates to daily users and that</p> <p>4 the 1.4 in- -- involves twice-or-more-a-week</p> <p>5 users?</p> <p>6 I'm just trying to make sure I</p> <p>7 understand what you're saying.</p> <p>8 MS. O'DELL: Objection to the form.</p> <p>9 THE WITNESS: It looks like that's</p> <p>10 what the data is showing in those two</p> <p>11 analyses.</p> <p>12 BY MS. DAVIDSON:</p> <p>13 Q. And what's your basis for thinking</p> <p>14 that?</p> <p>15 A. Okay. Well, Supplementary Table 1</p> <p>16 says, "Hazard ratio and 95-percent confidence</p> <p>17 interval for association between frequency of</p> <p>18 genital powder use and risk of ovarian cancer</p> <p>19 versus Health Study 1."</p> <p>20 The top half of the table is all</p> <p>21 women, and they're comparing nonusers, less</p> <p>22 frequent users, and daily users.</p> <p>23 So the adjusted hazard ratio</p> <p>24 adjusted for multiple potential confounding</p> <p>25 factors, the has- -- the hazard ratio is .96</p>	<p style="text-align: right;">Page 188</p> <p>1 studies.</p> <p>2 BY MS. DAVIDSON:</p> <p>3 Q. But that's your understanding of</p> <p>4 what the 1.4 is on Figure 2?</p> <p>5 I think that's where you're</p> <p>6 looking.</p> <p>7 A. All I can say is what it says in</p> <p>8 the paper, that association between frequent</p> <p>9 use and risk of ovarian cancer.</p> <p>10 Q. Do you recall whether the sister</p> <p>11 study provides any breakdown of frequency of</p> <p>12 use?</p> <p>13 A. I believe they do, but I don't</p> <p>14 recall what the frequencies were that they</p> <p>15 used.</p> <p>16 Q. Do you know why the sister study</p> <p>17 was excluded from this paper?</p> <p>18 MS. O'DELL: Object to form.</p> <p>19 THE WITNESS: It states there were</p> <p>20 too few women that had high exposure.</p> <p>21 There were only two women it states.</p> <p>22 BY MS. DAVIDSON:</p> <p>23 Q. I'm sorry?</p> <p>24 A. The paper states that there were</p> <p>25 only two women. The data from sister study</p>
<p style="text-align: right;">Page 187</p> <p>1 for less frequent users and 1.27 for daily</p> <p>2 users.</p> <p>3 Whereas, it looks like when they</p> <p>4 did a summary meta-analysis for what they're</p> <p>5 defining as frequent users, two or more times a</p> <p>6 week, the relative risk is 1.14; and that's in</p> <p>7 Figure 2.</p> <p>8 Q. Is it your recollection that NHS1</p> <p>9 divided women into daily and also -- versus two</p> <p>10 plus weekly --</p> <p>11 MS. O'DELL: Objection to the form.</p> <p>12 BY MS. DAVIDSON:</p> <p>13 Q. -- users?</p> <p>14 MS. O'DELL: Objection.</p> <p>15 THE WITNESS: I'm not sure.</p> <p>16 Are you talking about what the</p> <p>17 questionnaire was or what their previous</p> <p>18 publications were?</p> <p>19 BY MS. DAVIDSON:</p> <p>20 Q. My question is: Is it your</p> <p>21 understanding that NHS1 has data both on daily</p> <p>22 users and on two-times-a-week-or-more users?</p> <p>23 MS. O'DELL: Objection to the form.</p> <p>24 THE WITNESS: I would have to look</p> <p>25 at what they reported in the original</p>	<p style="text-align: right;">Page 189</p> <p>1 were not provided to us due to the small sample</p> <p>2 size of exposed individuals and the highest</p> <p>3 exposure category, N equals two women. That's</p> <p>4 what the paper states on page 2527.</p> <p>5 Q. Do you know how the author -- if</p> <p>6 a -- if a study reported more than one OR for</p> <p>7 two or more applications per week, do you know</p> <p>8 how the authors decided which one to use?</p> <p>9 MS. O'DELL: Objection to the form.</p> <p>10 Incomplete hypothetical.</p> <p>11 THE WITNESS: I don't know if they</p> <p>12 state that in here. There's also a</p> <p>13 registered protocol, which I've not looked</p> <p>14 at.</p> <p>15 BY MS. DAVIDSON:</p> <p>16 Q. Have you done a full analysis of</p> <p>17 the study to determine whether you believe that</p> <p>18 a meta-analysis was properly done?</p> <p>19 A. I'm not sure what you mean by "full</p> <p>20 analysis to determine that a meta-analysis was</p> <p>21 correctly done."</p> <p>22 Q. Have you analyzed this</p> <p>23 meta-analysis to determine whether you think it</p> <p>24 was properly conducted?</p> <p>25 MS. O'DELL: Object to the form.</p>

<p>1        THE WITNESS: I'm not sure how  2        to -- how to answer that because I don't  3        have access to the data that they were  4        using.  5        I do know it's in a peer-reviewed  6        journal, that they've had a protocol  7        preregistered, they followed guidelines  8        for measuring data quality and -- and  9        reporting.  10       So beyond that, I can't -- I didn't  11       have access to the data, so I couldn't say  12       whether the analysis is proper or not.  13       BY MS. DAVIDSON:  14       Q. Do you generally assume that any  15       study or article you read in a peer-reviewed  16       journal has a certain level of validity?  17       MS. O'DELL: Object to the form.  18       THE WITNESS: For every article,  19       you look at it's strengths and weaknesses  20       and value it on that basis. I'm not going  21       to have access to any of these studies  22       that we're reviewing.  23       BY MS. DAVIDSON:  24       Q. When you say you look at the  25       strengths and the weaknesses, do you mean the</p>	<p>Page 190</p> <p>1        But I did not have access to data  2        for this study or any of the studies I  3        reviewed to determine whether the correct  4        analyses were done for those data.  5        BY MS. DAVIDSON:  6        Q. Have you in any way evaluated the  7        strengths and weaknesses of the Woolen  8        meta-analysis?  9        A. I --  10       MS. O'DELL: Objection. Asked and  11       answered.  12       Excuse me, Doctor.  13       THE WITNESS: I've not written a  14       report, so I have not written down what --  15       what are the exact strengths and  16       weaknesses of the study. I've just  17       reviewed it and looked at it for its  18       ability to answer a particular question,  19       meaning for does more frequent or does  20       frequent use of peritoneal talcum powder,  21       is that associated with risk of ovarian  22       cancer.  23       BY MS. DAVIDSON:  24       Q. If you turn to Table 2, do you see  25       that the Wu study is included here?</p> <p>Page 192</p>
<p>Page 191</p> <p>1        authors' expressed strengths and weaknesses; or  2        do you do your own analysis of the strengths  3        and weaknesses?  4        A. I look at strengths and weakness  5        myself.  6        Q. Do you do an independent evaluation  7        of the weaknesses of papers that you read in  8        the peer-reviewed literature?  9        MS. O'DELL: Objection to the form.  10       Asked and answered.  11       THE WITNESS: Could I have -- have  12       the question read back again, please.  13       (At which time the following was  14       read back:  15       "Question: Do you do an  16       independent evaluation of the weaknesses  17       of papers that you read in the  18       peer-reviewed literature?")  19       THE WITNESS: I'd have to say I  20       don't analyze ever study that I read. If  21       I'm doing a systematic review, then I do  22       evaluate the study for strengths and  23       weaknesses, which is -- which is part of  24       the standardized way of an epidemiologist  25       reviewing other epidemiology studies.</p>	<p>Page 193</p> <p>1        A. Yes.  2        Q. What specification of talc exposure  3        did the authors use from the Wu study?  4        A. So I see Table 2 does list a  5        specification for each of the studies.  6        Q. Correct. What's listed for Wu?  7        A. Yeah. For Wu, it looks like they  8        are saying more than 30 times per month and for  9        more than 20 years.  10       Q. Do you know whether that was the  11       only measure in the Wu study that satisfies the  12       eligibility criteria for this meta-analysis?  13       A. No, I don't.  14       MS. DAVIDSON: Let's put up Wu as  15       Exhibit 13.  16       (Whereupon, Exhibit No. 13,  17       Publication entitled, "Markers of  18       inflammation and risk of ovarian cancer in  19       Los Angeles County," by Anna H. Wu,  20       et al., was marked for identification.)  21       MS. DAVIDSON: Asher, did you put  22       Wu in the chart -- in the chat.  23       MR. TRANGLE: Yeah. Sorry. I just  24       added it now.  25       MS. DAVIDSON: Excellent. If we</p>

<p>1 could turn --</p> <p>2 MS. O'DELL: What exhibit is Wu?</p> <p>3 BY MS. DAVIDSON:</p> <p>4 Q. Do you need a minute to look at</p> <p>5 this?</p> <p>6 I'm going to be taking you to</p> <p>7 Table 2.</p> <p>8 Will you let me know when you are</p> <p>9 ready to answer questions, Doctor?</p> <p>10 A. Yes. I'm just looking at it now.</p> <p>11 Q. Okay. I just said just let me know</p> <p>12 when you're ready to answer questions, okay?</p> <p>13 A. Yes.</p> <p>14 Q. Great.</p> <p>15 A. Okay. I see Table 2.</p> <p>16 Q. So my eyesight is not great; but</p> <p>17 when -- if you look at frequency and during of</p> <p>18 use, it looks like there are four different</p> <p>19 calculated relative risks there that would fit</p> <p>20 the eligibility criteria for this</p> <p>21 meta-analysis.</p> <p>22 Do you agree with that?</p> <p>23 MS. O'DELL: Objection to the form.</p> <p>24 THE WITNESS: No. I'd say that</p> <p>25 there were two. So the categories that</p>	<p>Page 194</p> <p>1 The final statistical significance</p> <p>2 of that is what was relevant. These are just</p> <p>3 very small numbers. That's why those</p> <p>4 confidence intervals include one because you</p> <p>5 can see those numbers are much smaller.</p> <p>6 Q. Let's move along to the next one</p> <p>7 that would satisfy the criteria. That is --</p> <p>8 God, this is killing my eyes.</p> <p>9 The next one is less than or equal</p> <p>10 20 years and greater than 30 times a month,</p> <p>11 right?</p> <p>12 MS. O'DELL: Object to the form.</p> <p>13 THE WITNESS: Yes.</p> <p>14 BY MS. DAVIDSON:</p> <p>15 Q. And what's the relative risk there?</p> <p>16 A. 1.23.</p> <p>17 Q. Also not statistically significant,</p> <p>18 right?</p> <p>19 A. You can --</p> <p>20 MS. O'DELL: Object to form.</p> <p>21 THE WITNESS: -- still --</p> <p>22 MS. O'DELL: Doctor, give me a</p> <p>23 minute, Doctor. Just --</p> <p>24 THE WITNESS: I'm sorry.</p> <p>25 MS. O'DELL: Yeah. I -- I just</p>
<p>Page 195</p> <p>1 are greater than ten, so less than -- oh,</p> <p>2 I see what you mean. There could have.</p> <p>3 BY MS. DAVIDSON:</p> <p>4 Q. How many of these risk ratios -- of</p> <p>5 these calculated risk ratios would fit within</p> <p>6 the eligibility criteria of Woolen?</p> <p>7 MS. O'DELL: Objection to the form.</p> <p>8 THE WITNESS: Yeah. It looks like</p> <p>9 four of them could have.</p> <p>10 BY MS. DAVIDSON:</p> <p>11 Q. I'm looking at those four. Less</p> <p>12 than or equal to 20 years and 10 to 30 times a</p> <p>13 month.</p> <p>14 What is the risk ratio for that?</p> <p>15 A. Which one are you saying now?</p> <p>16 Q. Less than or equal to 20 years and</p> <p>17 greater than 10 to less than 30 times or equal</p> <p>18 to 30 times a month.</p> <p>19 What is the relative risk?</p> <p>20 A. 1.16.</p> <p>21 Q. Is it statistically significant?</p> <p>22 A. The confidence interval includes</p> <p>23 one, but that's not relevant for meta-analysis</p> <p>24 because you would add all of these together,</p> <p>25 the meta-analysis.</p>	<p>Page 197</p> <p>1 wanted to note my objection.</p> <p>2 You may answer.</p> <p>3 THE WITNESS: Okay. And still not</p> <p>4 relevant whether it's statistically</p> <p>5 significant or not.</p> <p>6 BY MS. DAVIDSON:</p> <p>7 Q. Understood your position on that.</p> <p>8 Let's move down to the next one.</p> <p>9 Greater than 20 years and greater</p> <p>10 than 10 or less -- to less than or equal to</p> <p>11 30 times a month.</p> <p>12 What's the relative risk there?</p> <p>13 A. 1.57.</p> <p>14 Q. Also not statistically significant?</p> <p>15 A. Again, irrelevant because the final</p> <p>16 analysis is the end -- number we end up with</p> <p>17 the meta-analysis. You would never leave out</p> <p>18 studies because of statistical significance if</p> <p>19 you're doing a meta-analysis.</p> <p>20 Q. Does the Woolen study explain how</p> <p>21 it selected which of the Wu relative risks it</p> <p>22 was going to use for its paper?</p> <p>23 MS. O'DELL: Objection to form.</p> <p>24 THE WITNESS: I don't see it.</p> <p>25 Again, they have a study protocol. So if</p>

<p>1 that states how they would choose if 2 they're multiple levels of a variable that 3 could be chosen, that could give the 4 answer; but I didn't look at that 5 protocol.</p> <p>6 BY MS. DAVIDSON:</p> <p>7 Q. AND you didn't see anything in the 8 paper explaining how they made that selection, 9 right?</p> <p>10 A. Again, I have not had time to look 11 in detail for that particular question.</p> <p>12 I've read -- I've had about 10 or 13 15 minutes to read this article, maybe 10 14 minutes. And so the questions have been varied 15 and what I would -- to give a best answer, I'd 16 be able to read the article in depth for each 17 question.</p> <p>18 But from what I can see from a 19 quick read, I can't see anymore explanation of 20 why they chose one of those categories.</p> <p>21 Q. Are you aware of any scientific 22 basis for defining frequent talc use as two or 23 more times per week?</p> <p>24 MS. O'DELL: Object to form.</p> <p>25 THE WITNESS: I haven't seen it</p>	<p>Page 198</p> <p>1 MS. O'DELL: Object to form. 2 THE WITNESS: Could you repeat the 3 question, please?</p> <p>4 BY MS. DAVIDSON:</p> <p>5 Q. Is it your understanding that all 6 of the studies included in Woolen specifically 7 looked at two days or more of exposure?</p> <p>8 MS. O'DELL: Object to the form. 9 THE WITNESS: It looks like to be 10 eligible, they had to be multiple times 11 per week, two or more; and I see the title 12 to Table 2, which you're asking about. It 13 states the most frequent perineal talcum 14 powder use reported for each study was 15 as-directed.</p> <p>16 BY MS. DAVIDSON:</p> <p>17 Q. So what is the range of use covered 18 by this meta-analysis?</p> <p>19 MS. O'DELL: Object to form. 20 THE WITNESS: It looks like some 21 range. I can't calculate exactly what the 22 lower limit here is, but this is done in 23 epidemiology in other instances. 24 For example, the physical activity 25 guidelines analysis that we did, we looked</p>
<p>Page 199</p> <p>1 defined. I'd have to look through all of 2 my old studies -- all of the previous 3 studies to see if they use that word 4 "frequent" and how they defined it.</p> <p>5 BY MS. DAVIDSON:</p> <p>6 Q. And I believe you testified already 7 that you don't -- you didn't see anywhere where 8 the Woolen authors explained how they came to 9 that metric, correct?</p> <p>10 A. I didn't see that. Again, I would 11 need to look in depth at the paper to see -- 12 and the protocol to see if I could find that 13 answer.</p> <p>14 Q. Is use of talc less than twice per 15 week infrequent?</p> <p>16 MS. O'DELL: Object to form.</p> <p>17 THE WITNESS: I don't know how to 18 answer that.</p> <p>19 BY MS. DAVIDSON:</p> <p>20 Q. Is it your understanding -- going 21 back to Woolen, Exhibit 12, is it your 22 understanding from Table 2 of Woolen that all 23 of the studies in this meta-analysis looked at 24 specifically two days a week or more of 25 exposure?</p>	<p>Page 201</p> <p>1 at for each study the highest versus the 2 lowest level of physical activity. 3 So even though you have a measure 4 that varies across studies, it's a 5 standard way to combine studies. And so 6 this does, even though the particular 7 metric is different by studies, it does 8 give you a picture of -- of the most 9 frequent versus the least frequent, 10 meaning no use, across studies.</p> <p>11 BY MS. DAVIDSON:</p> <p>12 Q. Does that change your testimony 13 about why Figure 2 has a 1.4 risk ratio for 14 O'Brien?</p> <p>15 MS. O'DELL: Object to the form. 16 THE WITNESS: I can't recall what 17 you mean what my testimony is.</p> <p>18 BY MS. DAVIDSON:</p> <p>19 Q. I believe you testified earlier 20 that you thought that the 1.4 differed from the 21 supplemental table because the 1.4 was two days 22 a week.</p> <p>23 MS. O'DELL: Objection to form. 24 Misstates her testimony. 25 THE WITNESS: Yeah. It looks like</p>

<p>1      Figure 2 in Table 2 are referring to 2      the -- the metric, it looks like versus 3      health study might have been daily. It 4      might have been frequency that they used. 5      It's not completely clear.</p> <p>6 BY MS. DAVIDSON:</p> <p>7      Q. Is any of the data in Table 2 -- 8      does any of the data in Table 2 actually 9      reflect use just two times per week?</p> <p>10     MS. O'DELL: Table 2 of Woolen, is 11     that what you're asking, Jessica?</p> <p>12     MS. DAVIDSON: Yes. We're -- we're 13     on Woolen. If I change tables, I'll say 14     so.</p> <p>15     THE WITNESS: It looks like some of 16     them would have been two times a week. 17     Some would be more, and some would be 18     less. Some could be more than once a day. 19     So it depends on the study how often -- 20     what kind of variable how they classified 21     it.</p> <p>22 BY MS. DAVIDSON:</p> <p>23     Q. Which study in Table 2 reflects two 24     times per week?</p> <p>25     A. I thought I just answered that. I</p>	<p>Page 202</p> <p>1      per week?</p> <p>2      MS. O'DELL: Objection to the form.</p> <p>3      THE WITNESS: I can't tell.</p> <p>4 BY MS. DAVIDSON:</p> <p>5      Q. Would it perhaps have been more 6      accurate for this paper to say that it was 7      looking at use four or more times per week?</p> <p>8      MS. O'DELL: Object to the form.</p> <p>9      THE WITNESS: I -- I can't make a 10     determination on -- on that. I wasn't 11     privy to their deliberations. I wasn't 12     privy to the data that they were looking 13     at.</p> <p>14 BY MS. DAVIDSON:</p> <p>15     Q. What is the difference between a 16     pooled analysis and meta-analysis?</p> <p>17     A. So A pooled analysis is when you 18     have access to individual-level data, and then 19     the data private eyes. So variables are 20     classified in a similar way. And then the 21     study is analyzed as if it was one very large 22     study with adjustment for the study of origin, 23     so the control for some potential differences 24     between studies.</p> <p>25     A meta-analysis uses the relative</p>
<p>Page 203</p> <p>1      can't really tell. There's a range in most of 2      them.</p> <p>3      And certainly, somebody it says -- 4      a study that says daily would be more than two 5      times per week. So three of those studies are 6      daily.</p> <p>7      Q. Uh-huh. Is there any study on this 8      list that suggests the specification was two 9      times per week?</p> <p>10     MS. O'DELL: Object to form.</p> <p>11     THE WITNESS: I don't see one that 12     says exactly two times per week. There 13     are several that would fall into that 14     category.</p> <p>15 BY MS. DAVIDSON:</p> <p>16     Q. Do you know why the authors defined 17     frequent use as two times per week if none of 18     the studies actually that they use involves a 19     specification of two times per week?</p> <p>20     MS. O'DELL: Object to the form.</p> <p>21     Asked answer and had.</p> <p>22     THE WITNESS: I don't know.</p> <p>23 BY MS. DAVIDSON:</p> <p>24     Q. Do you see anything in Table 2 25     that's suggestive of use less than four times</p>	<p>Page 205</p> <p>1      risk or odds ratio or hazard ratio that's given 2      in individual studies and combines those into a 3      combined study.</p> <p>4      Now, in some cases where a study 5      that's going to be included in a meta-analysis 6      is not previously published, then the authors 7      may request the data, calculate relative risk 8      or hazard ratios for that study, and then add 9      them to the meta-analysis.</p> <p>10     Q. And what -- is this a pooled 11     analysis, a meta-analysis, or a hybrid?</p> <p>12     A. It's a meta-analysis where I can 13     see.</p> <p>14     Q. So even though it uses unpublished 15     data from NHS1, you wouldn't call that pooling; 16     you would call that meta-analysis?</p> <p>17     A. Yes.</p> <p>18     Q. Okay. Let's go back to Exhibit 11.</p> <p>19     MS. DAVIDSON: Asher, do you want 20     to put that up.</p> <p>21 BY MS. DAVIDSON:</p> <p>22     Q. Do you recall when you were using 23     at the PDQ earlier that there's a discussion of 24     Woolen in this write-up?</p> <p>25     A. I don't recall. We had -- we had</p>

<p>Page 206</p> <p>1 that up so quickly I wasn't able to see exactly 2 what was on it. 3 Q. All right. Well, why don't -- do 4 you want to take a minute to take a look? 5 A. Yes, please. 6 MS. DAVIDSON: Asher, why don't you 7 blow up the part about Woolen, the 8 paragraph where it is. 9 BY MS. DAVIDSON: 10 Q. I said paragraph, but it's just 11 really just three sentences. So you should be 12 able to review it quickly. Let me know when 13 you've read that. 14 A. Okay. 15 Q. Great. So I -- the PDQ says, "A 16 meta-analysis of 10 case-controlled studies in 17 a highly selected subset analysis of one 18 perspective cohort study found an 19 association" -- and then it lists the OR and 20 the confidence interval -- "among women who use 21 perineal talc at least twice a week." 22 Do you see that sentence? 23 Did I read that correctly? 24 A. Yes. 25 Q. Do you agree with the authors of</p>	<p>Page 208</p> <p>1 analysis of the perspective study was 2 inconsistent with the main findings of the 3 original report." 4 What do IT mean by "the original 5 report"? 6 A. Well, they're referencing O'Brien, 7 which is not the original Nurses Health Study 8 report. This is like the third of Nurses 9 Health. 10 And Nurses Health Study in O'Brien, 11 they use the category of greater than or equal 12 to once per week. So, of course, it's going to 13 be different. So it's -- it's no surprise 14 there. 15 Q. Do you agree with the PDQ that the 16 subset analysis of the perspective study was 17 inconsistent with the main findings of O'Brien? 18 MS. O'DELL: Object to the form. 19 THE WITNESS: I think I'll repeat 20 what I said. They were all -- all those 21 studies were a subset because the question 22 was: What is the relative risk with the 23 highest frequency. 24 So the study picked out 25 high-frequency exposure compared to</p>
<p>Page 207</p> <p>1 the PDQ that Woolen used, quote, "a highly 2 selected subset analysis of one perspective 3 cohort study"?</p> <p>4 MS. O'DELL: Objection to the form. 5 THE WITNESS: Yeah. I would say 6 that there -- these were subset analyses 7 of all of these studies because they 8 specifically looked at the highest 9 exposure. 10 So I wouldn't say it was only one 11 study that had a selected subset. It was 12 a prespecified analysis. I mean, they -- 13 Woolen submitted their protocol in -- 14 let's see -- April 2020. And the paper 15 was not published until '22. So it's a 16 prespecified study. 17 And yeah, I would call of them a 18 selected subset analysis because of the 19 particular question. The particular 20 question was: At the highest level of 21 exposure, in terms of frequency, what is 22 the relative risk of ovarian cancer with 23 high-frequently exposure. 24 BY MS. DAVIDSON: 25 Q. The PDQ then says, "The subset</p>	<p>Page 209</p> <p>1 nonusers. 2 And the subset analysis of their 3 Nurses Health in the Woolen meta-analysis 4 is different from the O'Brien pooled 5 analysis because it was a different 6 question and a different exposure level 7 that was being assessed. I would expect 8 it to be different. 9 BY MS. DAVIDSON: 10 Q. The PDQ says, "Because of the 11 structure of this analysis, the results should 12 be interpreted with care." 13 Do you agree? 14 A. I think I wouldn't agree with that. 15 I think that it really understands what the 16 purpose of that paper was and how it was done. 17 So I wouldn't -- I wouldn't -- I 18 wouldn't agree with that, no. 19 Q. Do you feel that you have done a 20 sufficient analysis of Woolen to determine 21 whether or not the results should be 22 interpreted with care? 23 MS. O'DELL: Object to form. 24 THE WITNESS: I think every study 25 should be interpreted with care. I think</p>

<p>1       they all provide useful information.</p> <p>2       I think Woolen provided really</p> <p>3       important information about what's the</p> <p>4       risk and thought when women have the</p> <p>5       highest level of frequency of exposure.</p> <p>6       I think different analyses are</p> <p>7       useful if they're answering different</p> <p>8       questions, but this is a -- this is a very</p> <p>9       vague statement anyway. What does it mean</p> <p>10      to be interpreted with care?</p> <p>11      <b>BY MS. DAVIDSON:</b></p> <p>12      Q. If you had included Woolen in an</p> <p>13      expert report, would you have done a more</p> <p>14      robust evaluation of the study?</p> <p>15      MS. O'DELL: Object to the form.</p> <p>16      THE WITNESS: Sorry.</p> <p>17      MS. O'DELL: No. Please.</p> <p>18      THE WITNESS: I haven't done a</p> <p>19      written report yet, so I can't state how I</p> <p>20      would write that.</p> <p>21      <b>BY MS. DAVIDSON:</b></p> <p>22      Q. Have you reviewed Woolen to the</p> <p>23      same extent that you've reviewed studies that</p> <p>24      you've included in your expert reports in the</p> <p>25      past?</p>	<p>Page 210</p> <p>1      <b>BY MS. DAVIDSON:</b></p> <p>2      Q. Is it appropriate in a</p> <p>3      meta-analysis to mix data involving women with</p> <p>4      patent tubes and women with nonpatent tubes?</p> <p>5      MS. O'DELL: Objection to form.</p> <p>6      THE WITNESS: It depends on what</p> <p>7      the question is that you're asking.</p> <p>8      Certainly in early studies of</p> <p>9      ovarian cancer of talc that data was not</p> <p>10      always available.</p> <p>11      When it is available, it's very</p> <p>12      useful to look separately in women with</p> <p>13      patent tubes versus those without to see</p> <p>14      if there's a difference in answers.</p> <p>15      One thing to keep in mind is that</p> <p>16      people who don't have patent tubes at some</p> <p>17      point did have patent tubes. So if they</p> <p>18      used talc at that point, then the patency</p> <p>19      of their tube might not have made so much</p> <p>20      of a difference.</p> <p>21      So it really depends on what age</p> <p>22      the person was when they were being</p> <p>23      exposed.</p> <p>24      We don't have information in all</p> <p>25      these studies about early exposure before</p>
<p>Page 211</p> <p>1      MS. O'DELL: Objection. Asked and</p> <p>2      answered.</p> <p>3      THE WITNESS: I reviewed it</p> <p>4      probably not as many times as the other</p> <p>5      studies because it's a newer study.</p> <p>6      That's all I can say about it.</p> <p>7      <b>BY MS. DAVIDSON:</b></p> <p>8      Q. Do you know whether the results in</p> <p>9      Woolen are limited to women with patent tubes</p> <p>10     or whether they apply to women -- to all women?</p> <p>11     A. I need to -- to relook at the</p> <p>12     study. I know there's one subset analysis of</p> <p>13     the Nurses Health Study looking at women with</p> <p>14     patent fallopian tubes, but I don't know if</p> <p>15     that was done for the other studies.</p> <p>16     Q. Do you know whether the</p> <p>17     meta-analysis plot mixes women who with patent</p> <p>18     tubes with women with nonpatent tubes?</p> <p>19     MS. O'DELL: Objection to the form.</p> <p>20     THE WITNESS: I don't see any</p> <p>21     specific analysis presented except with</p> <p>22     the Nurses Health Study analysis. I don't</p> <p>23     see any one that is separate for women</p> <p>24     with patent tubes versus women without</p> <p>25     patent tubes.</p>	<p>Page 211</p> <p>1      somebody might have had tubal ligation or</p> <p>2      hysterectomy with fallopian tubes removed.</p> <p>3      So it's -- it can be a complicated</p> <p>4      question.</p> <p>5      But I would say the data are what</p> <p>6      they are. When they're available to look</p> <p>7      separately in the two groups, it's useful</p> <p>8      additional information, but it's not the</p> <p>9      whole picture.</p> <p>10     <b>BY MS. DAVIDSON:</b></p> <p>11     Q. Are there rules about when it's</p> <p>12     appropriate to mix heterogenous data and when</p> <p>13     it's not?</p> <p>14     MS. O'DELL: Objection to form.</p> <p>15     <b>BY MS. DAVIDSON:</b></p> <p>16     Q. In a meta-analysis obviously.</p> <p>17     A. I think -- that's a very broad</p> <p>18     question.</p> <p>19     Can you be more specific?</p> <p>20     Q. For example, we're talking right</p> <p>21     now about mixing data of patent women and</p> <p>22     nonpatent women.</p> <p>23     And my question is: Are there</p> <p>24     rules in a meta- -- meta-analysis to ensure</p> <p>25     that the data are homogeneous as opposed to</p>

<p>1 heterogeneous?</p> <p>2 MS. O'DELL: Objection to the form.</p> <p>3 Assumes facts.</p> <p>4 THE WITNESS: And when you're</p> <p>5 talking heterogeneous, homogenous compared</p> <p>6 to what?</p> <p>7 BY MS. DAVIDSON:</p> <p>8 Q. How do you decide whether studies</p> <p>9 are sufficiently similar and whether data</p> <p>10 points are sufficiently similar such that they</p> <p>11 belong together in a meta-analysis?</p> <p>12 A. It depends entirely on what</p> <p>13 question's being asked. And so it's -- it's</p> <p>14 not something I could answer as a general</p> <p>15 question.</p> <p>16 Q. Do you know the average age of</p> <p>17 tubal ligation?</p> <p>18 A. I do not know. I'm sure -- I'm</p> <p>19 sure it's changed over time. Some of these</p> <p>20 women were in their early years when the study</p> <p>21 started. Like Nurses Health Studies started in</p> <p>22 1976, and the women were 35 to 50 years old --</p> <p>23 35 to 55 years old.</p> <p>24 Women's Health Initiative studied</p> <p>25 in '92 when women were 59 to 79 years old. So</p>	<p>Page 214</p> <p>1 case as to whether O'Brien 2020 was</p> <p>2 sufficiently powered?</p> <p>3 MS. O'DELL: Objection to the form.</p> <p>4 She's asked [sic] that question.</p> <p>5 I mean, she's going to testify to</p> <p>6 O'Brien. She's testified to it in the</p> <p>7 past. So this is very individual, but...</p> <p>8 BY MS. DAVIDSON:</p> <p>9 Q. Are you going to answer?</p> <p>10 THE WITNESS: I'm sorry, Leigh.</p> <p>11 Did you say something at the very end?</p> <p>12 You said something about me</p> <p>13 testifying in the past.</p> <p>14 MS. O'DELL: You have testified to</p> <p>15 O'Brien and the power calculation in the</p> <p>16 past. And, you know --</p> <p>17 I guess what's your question?</p> <p>18 MS. DAVIDSON: I just want to know</p> <p>19 if you're going to be offering an opinion</p> <p>20 at trial in the Mississippi AG case as to</p> <p>21 whether O'Brien was sufficiently powered.</p> <p>22 MS. O'DELL: She's previously</p> <p>23 testified to that, and regarding the</p> <p>24 power, O'Brien; and you should expect her</p> <p>25 to offer testimony consistent with her</p>
<p>Page 215</p> <p>1 their experience at tubal ligation, whether it</p> <p>2 was even available, is going to be very</p> <p>3 different. And the same would be true, of</p> <p>4 course, for the case-controlled studies.</p> <p>5 So it's not a simple question even</p> <p>6 if somebody knows right now what's an average</p> <p>7 age of tubal ligation that might not be</p> <p>8 relevant to the women in these studies.</p> <p>9 Q. Do you know what the average age of</p> <p>10 tubal ligation was at any period relevant to</p> <p>11 these studies?</p> <p>12 A. I have not looked into that. I've</p> <p>13 not done a search on that.</p> <p>14 Q. You testified in 2021 that you had</p> <p>15 not an opportunity to do a power analysis for</p> <p>16 O'Brien 2020.</p> <p>17 Do you recall that?</p> <p>18 A. No, I don't recall.</p> <p>19 Q. Have you since 2021 had the</p> <p>20 opportunity to do a power analysis of O'Brien</p> <p>21 2020?</p> <p>22 MS. O'DELL: Objection to the form.</p> <p>23 THE WITNESS: No, I have not.</p> <p>24 BY MS. DAVIDSON:</p> <p>25 Q. Are you offering an opinion in this</p>	<p>Page 217</p> <p>1 prior statements whether they're in trial,</p> <p>2 deposition, or in her reports.</p> <p>3 MS. DAVIDSON: Are you instructing</p> <p>4 her not to answer?</p> <p>5 MS. O'DELL: She's previously</p> <p>6 answered that question; so yes, I am</p> <p>7 instructing her not to answer.</p> <p>8 BY MS. DAVIDSON:</p> <p>9 Q. I'm moving on to another paper.</p> <p>10 Do you need a break, Dr. McTiernan?</p> <p>11 A. Yes. That would be great.</p> <p>12 Q. All right. I'd like to get through</p> <p>13 the next paper before seven. I do have to stop</p> <p>14 at seven.</p> <p>15 So do you want to just take five</p> <p>16 minutes?</p> <p>17 A. Okay. If you tell what the paper</p> <p>18 is that I can print it off while you're --</p> <p>19 while we take a break, I just thought it might</p> <p>20 save some time.</p> <p>21 Q. Sounds great. So let's mark it</p> <p>22 before we take our break and then take our</p> <p>23 break.</p> <p>24 MS. DAVIDSON: I am marking as</p> <p>25 Exhibit 14 -- I hope I got that right --</p>

<p>Page 218</p> <p>1 "Talc powder and ovarian cancer: What is 2 the evidence?" John Micha, Mark 3 Retenmaier, Randy Bohart, and Bram 4 Goldstein. 5 (Whereupon, Exhibit No. 14, 6 Publication entitled, "Talc powder and 7 ovarian cancer: What is the evidence?" 8 by John P. Micha, et al., was marked for 9 identification.) 10 THE VIDEOGRAPHER: The time is 11 3:29 p.m. Off the record. 12 (Whereupon, a break was taken.) 13 THE VIDEOGRAPHER: The time is 14 3:39 p.m. We're back on the record. 15 BY MS. DAVIDSON: 16 Q. Great. Okay. Dr. McTiernan, we 17 took some time for you to review the -- I don't 18 know if it's pronounced Micha or Micha 19 [pronunciation differentiation] article from 20 2022. 21 A. Are you familiar with this paper? 22 Q. And what -- would you call this a 23 review paper? 24 A. Well, I call it an opinion piece.</p>	<p>Page 220</p> <p>1 A. It looks like it says, 2 womenscancerfoundation.com, yes, I see. 3 Q. Women's Cancer Research Foundation. 4 A. I see, yes. 5 Q. He's the -- I guess that e-mail is 6 the corresponding e-mail. 7 A. Okay. 8 Q. If I'm reading this right, three of 9 the four people who coauthored this piece are 10 from the Women's Cancer Research Foundation; is 11 that correct? 12 A. It looks like -- yes, it looks like 13 that. 14 Q. Have you heard of the Women's 15 Cancer Research Foundation? 16 A. No. 17 Q. Have you when you read this paper? 18 Did you go and research what the 19 Women's Cancer Research Foundation is? 20 A. I looked it up to see if I 21 recognized it, but I didn't. It looks -- oh, 22 sorry. Go ahead. 23 Q. When you looked it up, what did you 24 learn about it? 25 MS. O'DELL: Excuse me.</p>
<p>Page 219</p> <p>1 It's in the News and Views -- 2 Q. Uh-huh. 3 A. -- section of the Archives of 4 Gynecology and Obstetrics. 5 Q. Got it. And are you familiar with 6 John Micha, Mark Retenmaier, Randy Bohart, or 7 Bram Goldstein? 8 A. Am I familiar with them? No. 9 Q. Have you ever heard of any of them 10 before? 11 A. No. 12 Q. Do you know if any of them are 13 experts in this litigation? 14 A. I don't know. 15 Q. If I were to tell you that none of 16 them is an -- an expert in this litigation for 17 either side, would you have any reason to doubt 18 that? 19 MS. O'DELL: Objection to the form. 20 THE WITNESS: No. 21 BY MS. DAVIDSON: 22 Q. If you look at the bottom of the 23 first page, it says that Graham Goldstein is at 24 the Women's Cancer Research Foundation. 25 Do you see that?</p>	<p>Page 221</p> <p>1 You may answer, Dr. McTiernan. I 2 just felt like you got cut off, and I 3 wanted to make sure you had an opportunity 4 to answer. 5 THE WITNESS: That -- that was fine 6 because the second question is just what I 7 was going to say. It looks like they do 8 clinical trials. 9 BY MS. DAVIDSON: 10 Q. If you could turn to the second 11 page of the article under "Funding," it says, 12 "This study was supported by the Women's Cancer 13 Research Foundation, the family of Susan Berg, 14 and the family of Joan and Len Rullo in memory 15 of Elizabeth Johnson." 16 Do you see that? 17 A. Yes. 18 Q. Do you know who Susan Berg is? 19 A. No. 20 Q. What journal was this published in? 21 A. It says it's the Archives of 22 Gynecology and Obstetrics. 23 Q. Have you ever come across this 24 journal before? 25 A. I'm not sure.</p>

<p>1 Q. Do you know if it's a reputable 2 journal?</p> <p>3 A. I didn't check that out. It's 4 published by Springer, but they -- they publish 5 a lot of journals.</p> <p>6 Q. The authors of this paper state, 7 "Perineal application of talc does not 8 conclusively render vaginal or cervical 9 permeation, much less ovarian infiltration."</p> <p>10 Do you agree with that statement?</p> <p>11 MS. O'DELL: Where are you reading, 12 please?</p> <p>13 MS. DAVIDSON: The second column 14 under "Mechanism of Action."</p> <p>15 THE WITNESS: And so your question 16 was: Do I agree with it, or do I agree 17 that that's what it says?</p> <p>18 BY MS. DAVIDSON:</p> <p>19 Q. Do you agree with the statement?</p> <p>20 A. Let's see what they're referring 21 to.</p> <p>22 Yeah. I haven't looked at their 23 references; but I did -- in my report, I did 24 write about studies that have looked at 25 retrograde transport of articles through the --</p>	<p>Page 222</p> <p>1 BY MS. DAVIDSON:</p> <p>2 Q. The next sentence says, "Similarly, 3 the contention that talc migrate -- fibers 4 migrate into the diaphragm via the peritoneal 5 cavity and ultimately pervade the ovaries is 6 quite speculative."</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Do you agree with them that "the 10 contention that talc fibers migrate into the 11 diaphragm via the peritoneal cavity and 12 ultimately pervade the ovaries is quite 13 speculative"?</p> <p>14 A. Again, it's not clear that they've 15 done a full review of the literature. 16 Certainly, we -- it's evidenced through 17 presented in IARC for permeation of asbestos 18 fibers through inhalation and then to the blood 19 and lymphatic system.</p> <p>20 So I don't know what -- what -- 21 what type of things they reviewed except for 22 that one reference they have to a read about 23 asbestos in ovarian cancer.</p> <p>24 Q. Could a reasonable scientist 25 looking at the relevant literature conclude</p>
<p>Page 223</p> <p>1 into -- from the peritoneal area in through -- 2 up to the fallopian tubes and ovaries. And 3 also, that the FDA states that it's 4 indisputable that talc can have -- can move in 5 this way.</p> <p>6 So I don't agree with their 7 statement; but again, this is an opinion piece.</p> <p>8 Q. Do you think it's unreasonable for 9 these four researchers to have reached this 10 conclusion?</p> <p>11 MS. O'DELL: Object to form.</p> <p>12 THE WITNESS: I don't know if 13 they're researchers. Some of them are 14 clinicians, I would think. I don't -- I 15 don't know.</p> <p>16 So I -- I don't think that they've 17 done a full review that -- certainly, from 18 what I've seen, have not done a systematic 19 review of the epidemiology. It doesn't 20 look like they've done a full review of 21 the studies that have looked at trans- -- 22 transport and biological mechanisms. So 23 if this -- this is their opinion, but I 24 don't agree with it.</p>	<p>Page 225</p> <p>1 that the proposed mechanism of action for 2 talc-induced ovarian cancer is speculative?</p> <p>3 MS. O'DELL: Object to form.</p> <p>4 THE WITNESS: Would you repeat the 5 question, please?</p> <p>6 MS. DAVIDSON: Please, Suzanne. 7 (At which time the following was 8 read back: 9 "Question: Could a reasonable 10 scientist looking at the relevant 11 literature conclude that the proposed 12 mechanism of action for talc-induced 13 ovarian cancer is speculative?"")</p> <p>14 MS. O'DELL: Same objection.</p> <p>15 THE WITNESS: I think that one -- 16 if the one does a systematic review, such 17 as what IARC did, that a biological 18 mechanism for inhalation and permeation of 19 asbestos fibers through to the blood and 20 lymphatic system is reliable.</p> <p>21 BY MS. DAVIDSON:</p> <p>22 Q. Do you recall a few moments ago 23 that the Woolen paper also referred to the 24 positive biological mechanism as speculative?</p> <p>25 MS. O'DELL: Object to form.</p>

<p>1           THE WITNESS: I recall the word, 2       but I can't remember what the sentence 3       was.</p> <p>4 BY MS. DAVIDSON:</p> <p>5       Q. Are the Woolen authors and the 6 Micha authors unreasonable in believing that 7 the biological mechanism evidence is 8 speculative?</p> <p>9       A. And can you remind me what the 10 "speculative" referred to in Woolen?</p> <p>11      Was it a different subject matter?</p> <p>12      I -- I don't even remember what it 13 was.</p> <p>14      Q. Do you want to look at Woolen again 15 if you don't remember?</p> <p>16      A. Okay. I've -- I have in front of 17 me Woolen, and there's a sentence and a 18 discussion. It says, "It is widely speculated 19 that trans-genital migration of talc powder 20 through the fallopian tubes to the ovaries and 21 peritoneum results in inflammation and a 22 cascade of changes that result in 23 carcinogenesis."</p> <p>24      Is that what you're referring to?</p> <p>25      Q. Correct. Both authors use the</p>	<p>Page 226</p> <p>1           So I find it speculative that there 2       are these statements in these two papers, 3       and I think your -- can you remind your 4       question was linking those two, using the 5       similar word or derivative of a word.</p> <p>6 BY MS. DAVIDSON:</p> <p>7       Q. My question was do you think the 8 authors are unreasonable in these two papers to 9 refer biological mechanism theories as 10 speculative?</p> <p>11      A. Well, one of them -- one of them is 12 talking about just migration, and one is 13 talking about migration plus biological 14 mechanism. So it's not exactly the same thing.</p> <p>15      It's not the words I would use. I 16 would use words that refer to exactly what 17 they're talking about and give some references.</p> <p>18      Q. My question was simply: Do you 19 think it's unreasonable of them to be using 20 that word?</p> <p>21      MS. O'DELL: Objection. She's 22 answered your question.</p> <p>23      THE WITNESS: And I think my answer 24 would stay the same.</p> <p>25</p>
<p>1 word -- use -- use a variation on the word 2 "speculative," speculative or speculated, in 3 discussing biological mechanism, correct?</p> <p>4       MS. O'DELL: Object to form.</p> <p>5       THE WITNESS: These were not a 6 biological mechanism, but rather 7 transport.</p> <p>8       So Woolen was talking about 9 movement or the trans-genital migration of 10 talc powder through the fallopian tubes 11 and the ovaries and peritoneum resulting 12 in inflammation and a cascade of changes 13 that results in carcinogenesis.</p> <p>14      And we know with the FDA has stated 15 that it's indisputable that talc can move 16 through the -- the genital tract up to the 17 peritoneal area. So that's one issue.</p> <p>18      And then this speculation from 19 Micha is saying the contention that talc 20 fibers migrate into the diaphragm via the 21 peritoneal cavity and ultimately pervade 22 the ovaries is speculative. And it's not 23 clear since they reference an article on 24 asbestos exactly what they're talking 25 about in terms of speculation.</p>	<p>Page 227</p> <p>1           BY MS. DAVIDSON:</p> <p>2       Q. I'm sorry. I -- I didn't hear 3 whether you think it's reasonable or 4 unreasonable. That's my question.</p> <p>5       MS. O'DELL: She doesn't have to 6 use the word reasonable or unreasonable. 7 So I object to the form of the question, 8 and I believe Dr. McTiernan has given her 9 answer.</p> <p>10      BY MS. DAVIDSON:</p> <p>11      Q. Is it reasonable to believe that 12 the biological mechanism posited by you in your 13 report and by some other plaintiff's experts is 14 speculative?</p> <p>15      MS. O'DELL: Object to the form.</p> <p>16      THE WITNESS: The biological 17 mechanisms are, from my review -- and 18 we're talking about my report that's 19 already -- my previous report and -- and 20 the updated report?</p> <p>21      MS. O'DELL: Yes.</p> <p>22      THE WITNESS: Okay. And so now 23 you're asking me a question about those.</p> <p>24      So those biological mechanisms, as 25 I did that I evaluated as part of the</p> <p>Page 229</p>

<p>1 Bradford Hill causal analysis, the goal is  2 to determine whether there are plausible  3 mechanisms that could explain  4 associations, which is, as what I wrote;  5 and I'll stand by what I wrote at that  6 time.</p> <p>7 BY MS. DAVIDSON:</p> <p>8 Q. Do you recall what my question was?</p> <p>9 A. Something about reasonable.</p> <p>10 Q. Did you answer it?</p> <p>11 A. Maybe we can have the question and  12 my answer read back.</p> <p>13 Q. You answered about your opinions.</p> <p>14 I'm asking you whether those who  15 have contrary opinions, can they reasonably  16 have them, right?</p> <p>17 That's -- that was my question,  18 wasn't it?</p> <p>19 We can have Suzanne read it.</p> <p>20 MS. O'DELL: It was not the  21 question. You asked about, actually, her  22 report and other expert -- plaintiff  23 expert reports.</p> <p>24 So if you have another question,  25 she's available to answer it; but that she</p>	<p>Page 230</p> <p>1 A. I just said that I would not use  2 that word that it was -- is -- transport  3 possibilities were speculative.</p> <p>4 Certainly, the FDA considers it  5 indisputable that there is plausible mechanism  6 of transport through the genital tract to the  7 peritoneum.</p> <p>8 And IARC and -- has stated that  9 asbestos can be inhaled and then spread through  10 the blood and lymphatic system.</p> <p>11 Q. Let's turn to page 932, the first  12 sentence of conclusion.</p> <p>13 Can you read it out loud?</p> <p>14 A. Are you still on Micha?</p> <p>15 Q. Yeah. It's right up on the screen  16 if that's easier for you.</p> <p>17 If you can read the first sentence  18 aloud under conclusion.</p> <p>19 A. I'm trying to see the context here  20 before I'm reading it.</p> <p>21 So again, they didn't do a  22 systematic review, so I'm not sure which  23 studies they're referring to.</p> <p>24 But it says, "While several  25 case-control studies have suggested a</p>
<p>1 answered.</p> <p>2 MS. DAVIDSON: That -- that was not  3 my question. I'm sorry if you --</p> <p>4 MS. O'DELL: It was.</p> <p>5 MS. DAVIDSON: -- I'm sorry if you  6 misunderstood my question.</p> <p>7 MS. O'DELL: Go ahead.</p> <p>8 BY MS. DAVIDSON:</p> <p>9 Q. Is it reasonable for scientists to  10 consider your opinions on biological mechanism  11 and those of plaintiff's other experts to be  12 speculative?</p> <p>13 MS. O'DELL: Object to form.</p> <p>14 THE WITNESS: I can't speak for  15 what other scientists are -- are thinking  16 and what kind of evaluations they have  17 done. All I know is what I did in  18 reviewing the epidemiology and the biology  19 and identifying plausible mechanisms.</p> <p>20 BY MS. DAVIDSON:</p> <p>21 Q. Fair to say the authors of this  22 paper disagree with you?</p> <p>23 A. I don't know if they -- if they  24 disagree or agree with me.</p> <p>25 Q. Do you agree with them?</p>	<p>Page 231</p> <p>1 relationship between talc powder and the  2 incidence of ovarian cancer, numerous  3 epidemiologic studies have refuted any such  4 association."</p> <p>5 Q. Do you agree with that statement?</p> <p>6 A. It's too vague for me to say  7 whether I agree or disagree with it. Again,  8 they didn't do a systematic review. They  9 mentioned the pools cohort study of O'Brien.  10 But then they said there was another respective  11 analysis of the Nurses Health Study where it's  12 not recognizing that the Nurses Health Study  13 was part of O'Brien, that it was an updated  14 analysis of O'Brien.</p> <p>15 They didn't mention all of the  16 potential case controlled studies that somebody  17 would include in a systematic group.</p> <p>18 So I'm -- I'm not sure what they're  19 referring to here. So it's not something I can  20 agree with.</p> <p>21 Q. Do you believe there are any  22 epidemiological studies that have refuted the  23 association between talc powder and the  24 incidence of ovarian cancer?</p> <p>25 MS. O'DELL: Object to form.</p>

<p style="text-align: right;">Page 234</p> <p>1        THE WITNESS: I think that every  2        study adds to the body of knowledge as  3        there's no refutation of -- of data based  4        on one study. You look at all of the  5        studies to- -- together.</p> <p>6 BY MS. DAVIDSON:</p> <p>7        Q. Can you read the next sentence  8        aloud?</p> <p>9            I asked aloud.</p> <p>10      A. Yes, I know; and I want to see what  11     I'm reading before I read it aloud.</p> <p>12      Q. I see.</p> <p>13      A. Give me a second. Thank you.</p> <p>14            Okay. It says, "Since clinical  15     research has accorded inconsistent findings, an  16     implicated biomarker for talc powder and  17     ovarian carcinogenesis has not been elucidated,  18     and confounding variables have been  19     insufficiently addressed, an unequivocal  20     conclusion that the observed associations  21     between talc powder and ovarian cancer are  22     causal remain untenable."</p> <p>23      Q. Do you agree with that statement?</p> <p>24      A. There's a lot to it. I'd have to  25     pick apart quite a bit of it. And so I'd say I</p>	<p style="text-align: right;">Page 236</p> <p>1        with that.</p> <p>2        Q. Do you think it was unreasonable  3        for these authors to reach these conclusions?</p> <p>4        MS. O'DELL: Object to form.</p> <p>5        THE WITNESS: I think they reached  6        them because they did not do a systematic  7        review. They didn't look at the totality  8        of evidence.</p> <p>9 BY MS. DAVIDSON:</p> <p>10      Q. Are these authors correct that  11     there's been a steady decline in ovarian cancer  12     for nearly 30 years?</p> <p>13      A. I haven't checked that.</p> <p>14      Q. Do you know what the trends have  15     been of ovarian cancer diagnoses over the last  16     three decades?</p> <p>17      A. No. I haven't looked.</p> <p>18      Q. Are you aware that the Berg family  19     referenced in the funding of this paper sued  20     Johnson &amp; Johnson?</p> <p>21      A. No.</p> <p>22      MS. DAVIDSON: Can we go off the  23     record?</p> <p>24      THE VIDEOGRAPHER: The time is  25     4:02 p.m. We're off the record.</p>
<p style="text-align: right;">Page 235</p> <p>1        disagree with it in total.</p> <p>2        Q. Which parts do you disagree with?</p> <p>3        A. Well, it says, "Clinical research  4        has accorded inconsistent findings."</p> <p>5            I would say that from my systematic  6        review, the studies were quite consistent, most  7        of them showing increased risk of ovarian  8        cancer with talc use.</p> <p>9            Implicated biomarker for talc  10      powder and ovarian carcinogenesis, it's not  11      clear what biomarker they are referring to.</p> <p>12            Confounding variables  13      insufficiently addressed, well, most studies  14      have addressed a confounding variables. If a  15      variable has not been adjusted for, it does not  16      mean that it's confounding. In many studies  17      epidemiologists will evaluate for potential  18      confounders, and not adjusting does not mean  19      that they -- that it's been -- that it's a  20      weakness. It means it wasn't confounding in  21      that study.</p> <p>22            And -- and then it says, "An  23      unequivocal conclusion that they observed  24      associations between talc powder and ovarian  25      cancer causal remains untenable." I disagree</p>	<p style="text-align: right;">Page 237</p> <p>1        (Discussion held off the record.)</p> <p>2        THE VIDEOGRAPHER: The time is  3        4:03 p.m. We're back on the record.</p> <p>4        MR. MITCHELL: This is Meade  5        Mitchell on behalf of the defendants.  6        We've been going with this deposition from  7        11 a.m. Central time to 6 p.m.</p> <p>8            The deposition has taken a good  9        deal of time. There were some disputes  10      concerning mesothelioma issues. There  11      have been some disputes that have arisen  12      concerning the proper scope of the  13      deposition. And, of course, there's been  14      some -- some timing issues in connection  15      with review of records.</p> <p>16            We are at a point where we have to  17      stop for the day. We have offered to come  18      back tomorrow. Plaintiff's counsel has  19      indicated that they're not available,  20      which we understand. We have requested  21      that this deposition resume at a date  22      convenience to all parties in the next two  23      weeks.</p> <p>24            And my understanding is that  25      counsel for the plaintiff will consider</p>

<p>1 our request and let us know if they're 2 willing to do so.</p> <p>3 MS. O'DELL: Leigh O'Dell on behalf 4 of the plaintiff, and we have agreed to 5 meet and confer on defense counsel's 6 request. We will do that. Neither 7 Dr. McTiernan nor I are available 8 tomorrow.</p> <p>9 We also have talked with counsel 10 about the prospect of having the Court 11 consider and rule on the outstanding 12 objections, which we believe are 13 well-founded prior to any continuation of 14 the deposition, if at all.</p> <p>15 And so again, as we discussed off 16 the record, we'll be happy to meet and 17 confer about these issues and see if we 18 can reach resolution. If for some reason 19 we cannot, you know, we'll have the Court 20 facilitate next steps.</p> <p>21 So I guess we can go off the 22 record.</p> <p>23 MS. DAVIDSON: Meade, anything you 24 want to add to that?</p> <p>25 MR. MITCHELL: Only that -- that we</p>	<p>1 help if Dr. McTiernan -- what is mostly 2 left in my examination involves the 3 remaining materials on the Supplemental 4 Reliance List. So if Dr. McTiernan were 5 to review those right before the 6 deposition, that would also make the 7 remainder of the deposition go much more 8 quickly given that we had to take a number 9 of breaks because she wanted time to 10 reread articles which ate up into some of 11 our afternoon. Thank you.</p> <p>12 MS. O'DELL: We -- we completely 13 disagree with that for various reasons 14 I've said earlier, and so I'm not going to 15 restate that.</p> <p>16 That -- that somehow 17 Dr. McTiernan -- the suggestion that 18 Dr. McTiernan did not participate today in 19 good faith, which is not the case.</p> <p>20 And so I think that we've said 21 enough probably for the record at this 22 point.</p> <p>23 Let's go off the record --</p> <p>24 MS. DAVIDSON: I don't --</p> <p>25 MS. O'DELL: -- and --</p>
<p>1 would ask that the deposition take place 2 before the Court has an opportunity to 3 review -- to rule on objections because I 4 think that will take some time.</p> <p>5 We do understand that we're going 6 to engage in good-faith conversations on 7 that, but I do want to make clear that our 8 position is we should go forward.</p> <p>9 MS. O'DELL: I understand. As -- I 10 understand. I understand, Meade, as I 11 hope I have made our position clear. But 12 again, we'll meet and confer and do our 13 best to give dates to get through this.</p> <p>14 MS. DAVIDSON: The last thing I 15 want to state on the record for timing 16 purposes and scheduling purposes is that I 17 would say I'm about two-thirds done. So 18 we're over the hill.</p> <p>19 And in terms of trying to find 20 another day, I am very hopeful about a 21 half day any time in the next two weeks. 22 I'll make myself available, and we should 23 be able to finish this up in a half a day.</p> <p>24 It would also help -- I would add 25 one more thing that I think it would also</p>	<p>1 Page 239</p> <p>1 MS. DAVIDSON: I made no such 2 suggestion. So before we go off the 3 record, I want to make clear --</p> <p>4 MS. O'DELL: I believe you did.</p> <p>5 MS. DAVIDSON: I want to make clear 6 I did not make any such suggestion. I was 7 just suggesting that in order to expedite 8 the completion of the deposition, if 9 Dr. McTiernan reviews the articles 10 beforehand, it will make it go much more 11 quickly. That's all.</p> <p>12 MS. O'DELL: That's an 13 inappropriate suggestion. She had 14 reviewed the articles, but she is entitled 15 to -- these are very complicated 16 materials, and she's entitled to be 17 grounded in the document before she 18 answers questions.</p> <p>19 I'm not going to say anything 20 further. I think we've said enough. 21 We'll go off the record; and Meade, we'll 22 be in touch about our meet-and-confer.</p> <p>23 MS. DAVIDSON: Meade, do you have 24 anything else to say before we go off the 25 record?</p> <p>1 Page 240</p>

1                   MR. MITCHELL: We can go off the 2 record, and let me talk to Leigh for just 3 a second after we go off the record. 4                   MS. DAVIDSON: Sounds good. 5                   THE VIDEOGRAPHER: The time is 6 4:07 p.m. We're off the record. 7                   (The witness is excused.) 8                   (Deposition of Anne McTiernan, 9 M.D., Ph.D., adjourned at 4:07 p.m. PDT.) 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	Page 242 1                   E R R A T A   S H E E T 2                   I have read my testimony in the foregoing 3 transcript and believe it to be true and 4 correct to the best of my knowledge and belief 5 with the following changes: 6                   PAGE   LINE   CHANGE 7                   _____ 8                   _____ 9                   _____ 10                  _____ 11                  _____ 12                  _____ 13                  _____ 14                  _____ 15                  _____ 16                  _____ 17                  _____ 18                  _____ 19                   WITNESS SIGNATURE           DATE 20 21                  Sworn and subscribed to before me this 22                  ____ day of _____, 2023. 23 24                  Notary Public of the 25                  State of _____.
Page 243 1                   C E R T I F I C A T E 2 3 4                  I, SUZANNE J. STOTZ, a 5 Registered Professional Reporter, Certified 6 Realtime Reporter, Certified Court Reporter and 7 Notary Public in and for the State of 8 Washington, do hereby certify that the 9 foregoing is a true and accurate transcript of 10 the stenographic above-captioned matter. 11 12 13 14                  _____ 15                  Suzanne J. Stotz, RPR, CRR, CCR 16                  Washington Certification No. 3507 17 18                  DATED: October 4, 2023 19 20 21                  NOTE: THE CERTIFICATE APPENDED TO THIS 22                  TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION 23                  OF THE SAME BY ANY MEANS, UNLESS UNDER THE 24                  DIRECT CONTROL AND/OR DIRECTION OF THE 25                  CERTIFYING COURT REPORTER.	